

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE LOPEZ TORRES, ALVIN GAITAN
BENITEZ, CHRISTIAN LEMUS CERNA,
OMAR DEJESUS CASTILLO, MANUEL
ERNESTO PAIZ GUEVARA, and
JESUS ALEJANDRO CHAVEZ,

Defendants.

Crim. No. 1:14cr306

April 18, 2016

JURY TRIAL

BEFORE: THE HONORABLE GERALD BRUCE LEE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR GOVERNMENT: UNITED STATES ATTORNEY'S OFFICE
BY: JULIA MARTINEZ, AUSA
TOBIAS TOBLER, AUSA

OFFICIAL COURT REPORTER:

RENECIA A. SMITH-WILSON, RMR, CRR
U.S. District Court
401 Courthouse Square, 5th Floor
Alexandria, VA 22314
(703)501-1580

APPEARANCES (Continued)

FOR DEFENDANT JOSE LOPEZ TORRES

BYNUM & JENKINS, PLLC
BY: ROBERT L. JENKINS, JR., ESQ.
THE LEIVA LAW FIRM, PLC
BY: MANUEL E. LEIVA, ESQ.

FOR DEFENDANT ALVIN GAITAN BENITEZ

LAW OFFICE OF AMY LEIGH AUSTIN
BY: AMY LEIGH AUSTIN, ESQ.
SMITH & ZIMMERMAN, PLLC
BY: JEFFREY D. ZIMMERMAN, ESQ.

FOR DEFENDANT CHRISTIAN LEMUS CERNA

LAW OFFICE OF CHRISTOPHER AMOLSCH
BY: CHRISTOPHER AMOLSCH, ESQ.
FRANK SALVATO, ESQ.

FOR DEFENDANT OMAR DEJESUS CASTILLO

FIRSTPOINT LAW GROUP, PC
BY: KATHERINE MARTELL, ESQ.
OLD TOWN ADVOCATES, PC
BY: MEREDITH M. RALLS, ESQ.

FOR DEFENDANT MANUEL ERNESTO PAIZ GUEVARA

LAW OFFICE OF W. MICHAEL CHICK, JR.
BY: WILLIAM MICHAEL CHICK, JR., ESQ.

FOR DEFENDANT JESUS ALEJANDRO CHAVEZ

JEROME P. AQUINO, ESQ.
ELITA C. AMATO, ESQ.

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PROCEEDINGS

(Thereupon, the following was heard in open court at 10:02 a.m.)

THE CLERK: 1:14 criminal 306, United States versus Jose Lopez Torres, Alvin Gaitan Benitez, Christian Lemus Cerna, Omar Dejesus Castillo, Manuel Ernesto Paiz Guevara, and Jesus Alejandro Chavez; with Spanish interpreters previously sworn.

THE COURT: Good morning. Good morning, Counsel. Good morning, parties.

Ready to proceed? All right.

You can bring our jury out, Mr. Toliver.

Thank you.

You can bring the witness out, sure.

(Witness resumed stand.)

(Jury present.)

THE COURT: You may be seated.

Good morning, ladies and gentlemen.

THE JURORS: Good morning.

THE COURT: Good morning, Mr. Omar Dejesus Castillo.

Good morning, Mr. Christian Lemus Cerna.

Good morning, Mr. Manuel Ernesto Paiz Guevara.

1 Good morning, Mr. Jesus Alejandro Chavez.
2 Good morning, Mr. Alvin Gaitan Benitez.
3 Good morning, Mr. Jose Lopez Torres.
4 And good morning, Mr. Douglas Duran
5 Cerritos.

6 And good morning, Counsel.
7 Ready to proceed? Good morning,
8 Ms. Martinez. Ready to proceed?

9 THEREUPON, JUAN CARLOS AYALA MARQUEZ,
10 previously sworn, testified further as follows:

11 DIRECT EXAMINATION (Continued)

12 BY MS. MARTINEZ:

13 Q. Good morning.

14 A. Good morning.

15 Q. When we left off last week, we were talking about
16 the plan to kill Lagrima. Remember?

17 A. Yes.

18 Q. Where was the murder planned to take place?

19 A. Well, on the woods behind the apartment, Barcroft
20 View.

21 Q. Where are the Barcroft View apartments? What
22 neighborhood?

23 A. Well, that's on Columbia Pike.

24 Q. Do you know the neighborhood?

25 A. I don't know the name of the neighborhood, but

1 the apartments are Barcroft View.

2 Q. How was the gang going to kill Lagrima?

3 A. Well, some of them that were living in that
4 neighborhood. We moved to another street. I was --
5 personally, I was somewhat worried, and I think the
6 others were, too.

7 Q. Let me focus you on the plan to kill Lagrima.
8 And I know we got interrupted by a few days with the
9 break. Let me go back just a little bit to make sure
10 we're on the same page.

11 Correct me if I'm wrong. Do you recall
12 testifying that you were involved in discussions about
13 the plan to kill Lagrima?

14 A. Yes.

15 Q. Do you recall listing the other people who were
16 also involved in discussions about the plan?

17 A. Yes.

18 Q. So, right now, I want to focus on the plan that
19 was developed between you and the others you listed
20 before the murder of Lagrima. Okay?

21 Now, you said the murder was supposed to take
22 place in the woods behind Barcroft.

23 A. Yes.

24 Q. How was the gang supposed to get Lagrima to the
25 woods?

1 A. Just like if we were going to a regular meeting
2 of the clique.

3 Q. How was the gang supposed to kill Lagrima?

4 A. Well, first, we would try to make him believe
5 that we would give him a *calentón*. But after that, we
6 were going to kill him with machetes or with knives.

7 Q. What were you supposed to do -- and when I say
8 "you" I mean the gang -- with the body after you killed
9 him?

10 A. We would bury him.

11 Q. Where?

12 A. Right there in the woods.

13 Q. That plan that you've described, was that plan
14 followed?

15 A. Yes.

16 Q. What happened when you first arrived in the woods
17 that night?

18 A. Well, we started talking like we usually do about
19 what the clique had done during the week.

20 Q. How do you and the other clique members usually
21 greet each other when you start a meeting like that?

22 A. Well, we show the signs of the Mara.

23 Q. What does that mean?

24 A. That is something that's always done before we
25 start a meeting. It's always done by the clique.

1 Q. What kind of sign? Let's start with that first
2 one. Would you hold it up so the jury can see it?

3 A. (Indicating.)

4 Q. What does that sign signify?

5 A. It's like an M, but it is also the claw.

6 MS. MARTINEZ: Your Honor, may the record
7 reflect that the witness was holding his index and pinky
8 fingers up, with the thumb and the other two fingers
9 bent.

10 THE COURT: So noted.

11 BY MS. MARTINEZ:

12 Q. How about the second sign that you showed. Could
13 you hold it up and show the jury?

14 A. (Indicating.)

15 Q. Please keep holding it up.

16 MS. MARTINEZ: May the record reflect that
17 he's holding his index and second -- middle finger
18 together, facing up, with his other fingers bent and his
19 thumb out.

20 THE COURT: So noted.

21 BY MS. MARTINEZ:

22 Q. What does that -- you can take it down.

23 What does that sign signify?

24 A. It's an S.

25 Q. After you and the other gang members greeted each

1 other with these signs, what was the next thing that
2 happened.

3 A. Well, we talked with Payaso. He was the runner
4 of the clique.

5 Q. I want to talk about who was there that night.
6 My first question is, was the person who we agreed to
7 call homeboy two there that night of the murder?

8 A. Yes, he was there.

9 Q. In addition to you and homeboy two, who else was
10 there?

11 A. Lil Poison, Greñas, Lil Payaso, Lil Evil, Duende,
12 Lagrima, Lil Slow, and myself.

13 Q. Now, you said that part of the plan was that --
14 was to tell Lagrima he was going to get a *calentón*; is
15 that right?

16 A. Yes.

17 Q. Was he, in fact, told that that night?

18 A. Yes.

19 Q. What was his reaction?

20 A. Well, in the beginning he didn't want to accept
21 that he was going to be getting a *calentón*. But then he
22 didn't have any other option, because we were telling
23 him that he was breaking the rules of the clique.

24 Q. After this conversation about the supposed
25 *calentón* was over, what happened?

1 A. So, Payaso said, "Well, let's do what we are
2 supposed to do so." We crossed the river and we went to
3 the place where we were going to give him the *calentón*.

4 Q. When you got there, was there the beginning of a
5 *calentón*?

6 A. Yes.

7 Q. Who counted for the *calentón*?

8 A. Greñas.

9 Q. And who was involved in the beating for the
10 *calentón*?

11 A. It was I, homeboy two, and Lil Payaso.

12 Q. Do you know why the three of you were chosen to
13 participate in the *calentón*?

14 A. Well, they said we were the biggest ones and we
15 would do that quickly.

16 Q. Do what quickly?

17 A. We were going to throw him on the ground.

18 Q. Was he, in fact, thrown down?

19 A. Yes.

20 Q. What did you do after he was thrown down?

21 A. I grabbed him by the arms to hold him down there.

22 Q. What did Lil Payaso do?

23 A. He grabbed him by the feet.

24 Q. Then, what happened?

25 A. Well, then, Lil Poison arrived with the knife and

1 he tried to -- like to stab him.

2 Q. Where?

3 A. Like, up here on the chest.

4 Q. What did Lil Poison do after that?

5 A. Well, he couldn't stab him and he cut his own
6 hand when he was trying.

7 Q. What did he do after that?

8 A. Well, since he couldn't do it with a knife, he
9 went to grab the machete.

10 Q. What did Lil Poison do with the machete?

11 A. He start to hit him like on the face with the
12 machete.

13 Q. What, if anything, did anyone say at this point?

14 A. Well, Lagrima, when we started trying to stab
15 him, he asked, "What are you doing to me?"

16 Q. Did anyone respond?

17 A. Yes.

18 Q. Who?

19 A. Greñas told him that he was going to die because
20 he was a rat.

21 Q. In addition to Lil Poison, was there anyone else
22 who stabbed or cut Lagrima?

23 A. Yes.

24 Q. Who else?

25 A. Homeboy two, Lil Payaso, Lil Evil, Lil Slow,

1 Duende.

2 Q. How many times was Lagrima stabbed?

3 A. I don't know how many times, but I know there
4 were a lot of times.

5 Q. What weapons were used?

6 A. A knife and a machete.

7 Q. What did you do during the murder?

8 A. Well, I was holding him while they were hitting
9 him, and then I helped bury him.

10 Q. When you say "hitting," do you mean with hands
11 and fists, or do you mean with weapons?

12 A. Well, I only started giving him the *calentón*, so
13 I hit him with my hands.

14 Q. When you said in your answer a minute ago that
15 you held him, held Lagrima while they hit him, do you
16 mean they hit him with hands and fists, or do you mean
17 hit him with weapons?

18 A. With weapons.

19 Q. What else, if anything, did Lagrima say while the
20 gang was attacking him?

21 A. The last thing he said was, "The Mara," that he
22 was going to say who the rat was.

23 Q. Did he ever have an opportunity to say who the
24 rat was?

25 A. Nope.

1 Q. Why not?

2 A. Well, he practically was dead. We had put the
3 knife already on his heart, on his throat. He couldn't
4 talk.

5 Q. What happened after he was dead?

6 A. We dragged him to the place where we had
7 excavated a hole.

8 Q. Where was the hole?

9 A. Well, we had to climb a little bit uphill from
10 the place where we killed him.

11 Q. Who dragged his body to the hole?

12 A. I remember that it was me, Lil Payaso, Duende.

13 Q. Do you know who dug the hole?

14 A. Greñas and Lil Payaso.

15 Q. Do you know when they dug the hole?

16 A. I'm not a hundred percent sure, but I believe it
17 was the same day.

18 Q. Was the hole already there when you dragged
19 Lagrima's body to it?

20 A. Yes.

21 Q. Who put Lagrima's body in the hole?

22 A. The three of us, the ones who dragged the body
23 over there.

24 Q. Was the hole big enough?

25 A. No.

1 Q. So, what happened?

2 A. We had to cut off his legs, his feet.

3 Q. Why?

4 A. Well, he wouldn't fit inside the hole.

5 Q. What happened next?

6 A. Well, we pushed him inside so he would fit in,
7 and then we started throwing stones on top of him.

8 Q. Why did you throw stones on top of him?

9 A. So that the body wouldn't come up if it rained or
10 something like that.

11 Q. How big were the stones?

12 A. Well, not too big, might be this size
13 (indicating), or several sizes.

14 Q. What happened after Lagrima was buried?

15 A. Well, we met, all of us on the park where -- on
16 top, before the place we buried him.

17 Q. What was the purpose of meeting in the park after
18 the -- after the murder?

19 A. We were going to jump in Lil Slow.

20 Q. Why?

21 A. Well, he had already seen a lot of things the
22 clique had been doing. He'd been around enough, and Lil
23 Poison thought it would be a good time to jump him in.

24 Q. What had Slow done to earn being jumped into the
25 clique?

1 A. Well, he had been at the murder. That's the only
2 thing I know that he did in order to be jumped in.

3 Q. After the night that you and the other gang
4 members killed Lagrima, was there ever a time when you
5 went back to where Lagrima was buried?

6 A. I went once back, yes.

7 Q. Who did you go with?

8 A. With Greñas.

9 Q. Why did you go back?

10 A. Well, to see if everything was in order or
11 whether the body had come out somehow.

12 Q. Was everything in order?

13 A. Yes. Yes.

14 Q. Other than that time when you went back, were
15 there any other times when you went back to the general
16 area where Lagrima was buried?

17 A. Well, I went back again when we reburied him in
18 another hole.

19 Q. What do you mean when you reburied him in another
20 hole?

21 A. Well, we changed him to another hole that was
22 deeper.

23 Q. Why?

24 A. Well, because we thought that he could be found,
25 whether it rained, that he could show out or come out.

1 Q. What was your involvement in reburying Lagrima's
2 body?

3 A. Well, I did the hole.

4 Q. Who else was involved in reburying Lagrima?

5 A. Almost everybody in the clique.

6 Q. Who?

7 A. Well, it was me, Greñas, Lil Poison, Little
8 Pesadilla, Lil Evil, Lil Slow, Duende, Leopardo.

9 Q. What did Pesadilla do?

10 A. Well, he was the one who dug out the body from
11 the first hole.

12 Q. Who moved the body?

13 A. Lil Pesadilla, Lil Evil, Leopardo.

14 Q. After the murder of Lagrima, was the murder
15 discussed among other people in the clique?

16 A. Well, in the beginning only the homeboys knew
17 about it. But later on, we mentioned this or we talked
18 about this to other homeboys from other cliques, and to
19 the *chequeos*, too.

20 Q. The *chequeos* in your clique?

21 A. From my clique and other cliques, too.

22 Q. Focusing on your clique, what *chequeos* in your
23 clique were told about the murder of Lagrima?

24 A. Lil Wasón and Solitario.

25 Q. What conversation, if any, did you personally

1 have with Solitario about the murder?

2 A. Well, once I remember he told me he knew who the
3 chicken had been. I personally never told him: Look,
4 the chicken is *gallina*, it's Lagrima, the guy who is
5 buried there.

6 But he told me that he already knew that, he had
7 been told.

8 Q. Why did you use the word "chicken," *gallina*, just
9 then?

10 A. So, that was the name we gave him after we buried
11 him, so others would not understand what we were talking
12 about.

13 Q. What, if anything, did Solitario say about where
14 the murder took place?

15 A. He said the Lil Poison had taken him to see where
16 he was buried.

17 Q. What was Solitario's reaction during this
18 conversation with you?

19 A. He was just acting normal, not afraid, just
20 normal.

21 Q. All right. Let's talk now about the event that
22 led to your arrest in January of 2014. What were you
23 arrested for?

24 A. I have five charges. One of them was using a
25 firearm. And others were like disturbing the peace in

1 public places, such as schools.

2 Q. Where did this shooting take place?

3 A. That was in Culmore, on Bellevue Drive.

4 Q. How did you initially come to be involved in this
5 incident?

6 A. Well, I didn't know anything about it initially,
7 but I was called as I was on my way to the disco to
8 dance.

9 Q. Who called you?

10 A. Lil Poison.

11 Q. What did he tell you?

12 A. To come to Bellevue, because we were going to hit
13 on some locos who were there.

14 Q. So what did you do?

15 A. I just went there, hurried out to go there,
16 because everybody was already ready to go hit on them.

17 Q. Who was there?

18 A. When I got there, Lil Poison was there, Leopardo
19 was there, Solitario was there, Greñas, Lil Wasón, Lil
20 Pesadilla and Lil Evil.

21 Q. What happened after you arrived?

22 A. Well, there were two people -- there were two
23 people that we were going to hit that I already knew,
24 and they were sitting by the front door of the building.

25 Well, we were running. Two of them, Leopardo, I

1 think, had a bat, or maybe it was a machete, or Lil
2 Evil, maybe -- one of the two of them had either a bat
3 or a machete.

4 Q. Let me just keep asking questions, okay?

5 So, in addition to the machete or bat, was anyone
6 else armed?

7 A. Yes. Lil Poison had a gun, but I did not see it
8 until then.

9 Q. What gun?

10 A. I'm sure that it was a 22.

11 Q. Were you familiar with the 22?

12 A. I had seen it sometimes, and also had it in my
13 house sometimes.

14 Q. Do you know where the 22 came from?

15 A. Yes.

16 Q. Where?

17 A. Some homeboys from Los Angeles sent it over.

18 Q. Who did they send it to?

19 A. Greñas.

20 Q. You described that people were running. What
21 happened after that?

22 A. What was that? Can you say that again?

23 Q. You talked about when you saw the weapon that
24 night, the gun. When did you see the gun?

25 A. When one of the guys who was there that we were

1 going to hit went back inside the house.

2 Q. What --

3 A. And then he began talking to us from the window
4 and telling us things, like we were pussies and things
5 like that. And that is when I saw that Lil Poison got
6 out the pistol and shot him.

7 Q. Shot him where?

8 A. Well, I don't think he hit him, but he only just
9 shot towards the window.

10 Q. Do you know how this attack started?

11 A. I know what I was told.

12 Q. Who told you?

13 A. Well, initially, it was Lil Poison that told me,
14 but then the rest of them began telling me, and they
15 told me that it was Lil Evil that had it -- that started
16 everything.

17 Q. What did Lil Poison tell you?

18 A. That somebody had tried to -- wanted to hit Lil
19 Evil.

20 Q. What was the problem with that?

21 A. I only know that they didn't get along with most
22 of us, most of the rest of us.

23 Q. Who didn't get along with who?

24 A. The persons that we shot at, the ones that we
25 were going to hit.

1 Q. Didn't get along -- so those people didn't get
2 along with who?

3 A. With us, the members of the gang or the Mara.

4 Q. What did the other gang members tell you about
5 why this attack occurred?

6 A. Lil Wasón, the *chequeo*, told me that there had
7 been a fight, and that they had hit him with a bottle.

8 Q. Hit who?

9 A. They had hit him, Lil Wasón.

10 Q. What was the problem with that?

11 A. I don't know exactly. I just know that he was
12 hit with a bottle and that they were drunk.

13 Q. Why was that a problem for the gang?

14 A. Can you repeat the question?

15 Q. Why was the attack on Lil Wasón something that
16 the gang reacted to?

17 A. Because he's part of the Mara, and we're not
18 going to allow that somebody is going to hurt anybody
19 that is a part of the gang.

20 Q. You mentioned Lil Wasón a number of times. Who
21 was he?

22 A. He was a *chequeo* of our clique.

23 Q. How long had you known him?

24 A. Perhaps a year.

25 Q. With the help of the court security officer,

1 could I please show you what has been marked for
2 identification purposes as Government's Exhibit 62-A and
3 62-B.

4 Do you recognize the person in these pictures?

5 A. Yes.

6 Q. Who is it?

7 A. Lil Wasón.

8 MS. MARTINEZ: Your Honor, the government
9 moves into evidence Government's Exhibit 62-A and 62-B.

10 THE COURT: Received.

11 MS. MARTINEZ: May we publish, Your Honor?

12 THE COURT: Yes.

13 MS. MARTINEZ: Start with A.

14 BY MS. MARTINEZ:

15 Q. What was your relationship like with Lil Wasón?

16 A. Initially, we get along really well.

17 Q. How so?

18 A. Because I knew him somewhat before he began
19 walking with the clique.

20 Q. You said initially, you got along well. Did that
21 change?

22 A. Yes, it did.

23 Q. How did it change?

24 A. When he began getting more involved with the
25 gang, with the Mara, then he was with me more and also

1 with the other homeboys. Sometimes I'd allow him to
2 sleep in my home, in my room. And he was sometimes
3 selling drugs, most of the time, with us. For a time,
4 he liked being with me all the time.

5 But that one day, I got home -- and that was
6 where I lived with my child and the mother of my child.
7 And I was talking on the phone on my cellphone with a
8 homeboy from El Salvador.

9 I went into the bedroom. And, only my daughter
10 was there. The mother of my child was not there. The
11 door to the bathroom was locked.

12 I continued talking with the homeboy in El
13 Salvador. And I looked a little bit through the window,
14 and I saw that he came out of the bathroom window.

15 Q. Who came out of the bathroom window?

16 A. Lil Wasón.

17 Q. What happened next?

18 A. I went to the bathroom, knocked on the door, and
19 the mother of my child was there. So I got angry and
20 began shouting at her.

21 And then the homeboy that I was talking to on the
22 phone asked me whether anything was going on.

23 And I told him that, no, that it was -- that
24 there wasn't, and that I would call him back, that I had
25 some things to do.

1 Q. How did this change your relationship with Lil
2 Wasón?

3 A. Well, things changed a lot. And I talked about
4 it and I thought at that moment I wanted for him to get
5 a green light for what had happened.

6 Q. Why did you want that?

7 A. Because I realized that he was smoking crystal
8 meth in the bathroom with the mother of my child.

9 Q. So what did you do?

10 A. I told the mother of my child to leave the house,
11 and I went outside to look for him.

12 Q. About how long before you were arrested was this
13 incident?

14 A. A few months later, like four or three months.

15 Q. What was your relationship with Lil Wasón like by
16 the time that you were arrested in January of 2014?

17 A. By the time I got arrested, he had regained my
18 trust. He said that he made a mistake, and we began
19 improving our relationship.

20 Q. How did he regain your trust?

21 A. Because initially when that happened, we began
22 distancing ourselves and he stopped walking with me.
23 And then he again began looking for me. We were smoking
24 together, and he came to the house again.

25 Q. Do you know where Lil Wasón was living after you

1 went to jail?

2 A. Yes.

3 Q. Where?

4 A. He was living with the mother of my child.

5 Q. Why?

6 A. Because I told him to take care of my child, that
7 I didn't trust anybody else.

8 Q. Do you know what ended up happening to Lil Wasón?

9 A. Yes.

10 Q. How do you know?

11 A. Because I -- because I was part in some calls, I
12 listened to some calls, and I was also told by some
13 members of the clique.

14 Q. When you say you were also told by some members
15 in the clique, was that in person?

16 A. Yes, in person, and also by phone.

17 Q. Focusing on in person, where were you when you
18 were told in person what happened to Lil Wasón?

19 A. I was in Fairfax, in jail.

20 Q. Who told you?

21 A. Lil Poison. He came to my block where I was.

22 Q. What did Lil Poison tell you?

23 A. He told me how they had killed him.

24 Q. What did he say?

25 A. That they had cut his head off, that they had

1 stabbed him and all of that.

2 Q. Who did he say did these things?

3 A. He just said, "those of us who were there." He
4 didn't tell me who was doing the stabbing or anything
5 like that. He just said, "those of us who were there."

6 Q. Who did he say was there?

7 A. He told me that Solitario, Duende, Leopardo, Lil
8 Poison and Lil Slow was there. I am not sure whether he
9 told me that Lil Payaso was there as well, so I can't
10 say that for sure.

11 Q. In addition to Lil Poison, was there anyone else
12 that told you that happened to Lil Wasón in person.

13 A. Solitario told me a little bit about it, too.

14 Q. What did Solitario say?

15 A. That he had gone there to rip his head off, that
16 they had played soccer with his head.

17 Q. Where were you when Solitario told you this?

18 A. The two of us were in prison, in the jail in
19 Fairfax.

20 Q. In addition to Lil Poison and Solitario, was
21 there anyone else who told you in person what happened
22 to Lil Wasón?

23 A. Lil Pesadilla.

24 Q. What did Lil Pesadilla tell you?

25 A. He just said that Solitario was a little bit

1 frightened and that he had to hit him on the chest,
2 because he was going into panic mode.

3 Q. What else did Lil Pesadilla say?

4 A. That practically, it was him who kill him, that
5 basically, he had done most of it, that the others were
6 there as well, but that it was he who had done most of
7 it.

8 Q. When you're saying "he who had done most of it,"
9 who are you talking about?

10 A. He didn't give names, but he meant the other
11 people that were there present.

12 Q. But when you said that Pesadilla said he was the
13 person who did most of the killing --

14 MR. ZIMMERMAN: Objection, leading, Your
15 Honor.

16 THE COURT: Sustained.

17 BY MS. MARTINEZ:

18 Q. In your description about what Pesadilla said,
19 who was Pesadilla talking about?

20 A. Well, initially, he referred to Solitario, that
21 he had hit Solitario because he didn't want to do it,
22 but he was going into panic mode.

23 And then he -- that it was him who had ripped his
24 head off, that practically was him who had ripped his
25 head off, and that he had done all of that.

1 Q. And who is "him" in that answer?

2 A. Lil Pesadilla.

3 Q. In addition to Lil Poison, Solitario and Lil
4 Pesadilla, was there anyone else who told you what
5 happened to Lil Wasón in person?

6 A. I don't remember if anybody else did.

7 MS. MARTINEZ: No further questions, Your
8 Honor.

9 MR. LEIVA: Your Honor, if I could have a
10 moment, we just need to get our audio equipment set up.

11 CROSS-EXAMINATION

12 BY MR. LEIVA:

13 Q. Good morning, Mr. Marquez.

14 Mr. Marquez, since you are using an interpreter,
15 if you do not understand my question, please let me
16 know, and I will do my best to either rephrase the
17 question or repeat it, if need be. Understood?

18 A. Okay.

19 Q. All right. Mr. Marquez, why don't we start off
20 with why you're here today.

21 You've reached a cooperation agreement with the
22 government; is that correct?

23 A. Yes.

24 Q. And, you reached this cooperation agreement with
25 the government before you decided to plead guilty to the

1 Lagrima murder?

2 A. Yes.

3 Q. So, on the day that you pled guilty in front of a
4 judge, you already had this cooperation agreement with
5 the government?

6 A. Yes.

7 Q. And, part of the cooperation agreement was -- is,
8 if you testified on behalf of the government or provided
9 them with information, you would receive a reduced
10 sentence?

11 A. Yes.

12 Q. All right. And, you were told -- and I'm
13 assuming that you did not take this decision lightly,
14 right?

15 A. No.

16 Q. All right. You talked to two attorneys that you
17 had?

18 A. Yes.

19 Q. All right. You also had conversations with the
20 prosecutor?

21 A. Yes.

22 Q. All right. And, based on these conversations
23 that you had with different people, you know that your
24 reduction in your sentence depends on your level of
25 cooperation?

1 A. Yes.

2 Q. And, you were also explained the process of how
3 one goes about receiving a reduction in their sentence,
4 correct?

5 A. Yes.

6 Q. You were advised that the prosecutors would write
7 a letter or submit a motion on your behalf.

8 A. Yes.

9 Q. And, within that motion or that letter they would
10 actually recommend what sentence you should receive,
11 based on your level of cooperation.

12 A. Yes.

13 Q. And, I'm assuming that you also asked questions
14 of what type of reduction you thought you may receive.

15 A. I did ask, but they have never told me. They
16 have never promised me that they are going to give me so
17 many years.

18 Q. But, given that you didn't enter into this
19 decision lightly, Mr. Marquez, I'm assuming that you
20 were given examples of other people who cooperated, who
21 were in a similar situation as yourself, and what type
22 of sentence they received?

23 A. Yes.

24 Q. All right. So, you're hoping that you would
25 leave prison, what, in 15, 20 years? Is that what your

1 hope is?

2 A. I just hope to get out one day. I don't know
3 whether it would be 15 or 20 years or what, but I hope
4 to get out one day.

5 Q. So you tell us when you decided to enter into
6 this cooperation agreement, you didn't have any hopes of
7 what you would receive, based on the example of other
8 people, other similarly situated defendants?

9 A. Well, yes, I base myself on the situation of
10 other people who had their sentence reduced and were in
11 similar conditions as I am.

12 Q. And so, based on that, you're hoping to get out
13 in 15 or 20 years?

14 A. As I told you before, I hope to get out one day.

15 Q. So, you don't want to answer my question?

16 A. I already answered your question. I hope to get
17 out one day. If it's going to be 15, or 20 years from
18 now, that would be fine.

19 Q. Instead of life, right?

20 A. Well, instead of life in prison.

21 Q. All right. You also requested that the
22 government place you in the Witness Protection Program,
23 right?

24 A. Yes.

25 Q. And, the Witness Protection Program protects you

1 while you're in jail; is that correct?

2 A. Yes.

3 Q. And, you were told that after you testified here
4 today, and once you're sentenced, you would be placed in
5 this -- in a special federal facility for people who
6 cooperated with the government?

7 A. Yes.

8 Q. And that must be a big ease to you, knowing that
9 you're not going to be in a regular prison after people
10 found out that you had cooperated?

11 THE INTERPRETER: Excuse me. I didn't --
12 BY MR. LEIVA:

13 Q. I'm sure that's a relief for you, that you know
14 you're going to be in a special facility.

15 A. Yes.

16 Q. You also asked that your girlfriend be placed in
17 witness protection, correct?

18 A. Yes.

19 Q. And, your girlfriend's name is Rosie? I'm not
20 going to ask you her last name, but her first name is
21 Rosie?

22 A. Yes.

23 Q. And, Rosie is not the mother of your daughter,
24 correct?

25 A. No.

1 Q. That's Belén?

2 A. Belén.

3 Q. Belén, I apologize.

4 And, let me just ask you this one question, and
5 we'll get to it later. And the person who you believe
6 was in the bathroom with Gerson Martinez was Belén, not
7 Rosie, your girlfriend, right?

8 A. Yes, Belén, it was Belén.

9 Q. And, you've also asked that your daughter be
10 placed in witness protection?

11 A. Yes.

12 Q. And, I'm assuming since you asked that your
13 daughter be placed in witness protection, that you also
14 requested, then, that the mother of your child, Belén,
15 be placed in witness protection?

16 A. Yes, of course.

17 Q. All right. And, you even asked that your mother
18 be given a visa to come into this country, right?

19 A. Yes.

20 Q. So, let's set the timeline here for the members
21 of the jury and for Judge Lee. You were arrested
22 sometime in January of 2014, correct?

23 A. Yes.

24 Q. And those were on state charges, not on these
25 charges.

1 A. Yes.

2 Q. It was for gang participation, felony gang
3 participation?

4 A. Yes.

5 Q. Felony shooting into an occupied dwelling?

6 A. Yes.

7 Q. Felony use of a firearm?

8 A. Yes.

9 Q. And destruction of private property?

10 A. Yes.

11 Q. Okay. So, at the time that you were originally
12 arrested in January of 2014, there were no murder
13 charges pending against you, were there?

14 A. No.

15 Q. Okay. Another benefit that you've received as a
16 result of your cooperation is that you haven't been
17 charged with the Gerson Martinez murder, have you?

18 A. Yes.

19 Q. And, Gerson Martinez is the young man that you've
20 been referring to as Wasón, right?

21 A. Lil Wasón, yes.

22 Q. And that's the same person who you say you saw
23 jump out of your bathroom window.

24 A. Yes.

25 Q. Okay. So, going back to January of 2014, when

1 you were arrested on state charges, ICE or Immigration
2 put a detainer on you; is that correct?

3 A. Yes.

4 Q. And, you were told that you would be deported
5 once your case in state court was done.

6 A. Yes.

7 Q. Going back to this timeline, so you're arrested
8 January 2014, and you did not start cooperating with the
9 government until sometime November 2015. Does that
10 sound about right?

11 A. Yes.

12 Q. All right. Before we go any further,
13 Mr. Marquez, let's talk about -- well, before we talk
14 about the stuff that you claim that you know and you
15 saw, let's talk about some of the stuff that you've
16 done.

17 You, Duende and Lagrima attempted to kill someone
18 in Chirilagua. Do you recall that?

19 A. No.

20 Q. You don't recall chasing somebody behind
21 Lilliana's restaurant with a machete or other weapons?

22 A. No.

23 Q. Do you recall attempting to murder someone who
24 was a member of the 18th Street gang?

25 A. Well, I remember looking for them, but I don't

1 remember following anybody with a machete.

2 Q. I didn't ask you if you followed an 18th Street
3 gang member with a machete. I've asked you -- or I
4 asked you if you remember attempting to kill someone who
5 you thought was a member of 18th Street gang.

6 A. Well, yes, I remember. But you asked me whether
7 I had been there. And I remember us looking for
8 somebody from 18th Street gang.

9 Q. So, you're telling us that you did not
10 participate in the attempted murder of someone who you
11 believed was an 18th Street gang member?

12 A. Not the time that you are talking about.

13 Q. What time, then? Why don't you tell us.

14 It sounds like there was another time. What time
15 did you participate in the attempted murder of someone
16 who you thought was an 18th Street gang member?

17 A. Well, I was always looking for the other --
18 together with the other homeboys, for guys, *chavalas*,
19 from the 18th Street gang. But I never had the
20 opportunity to be in front of one of them with a
21 machete.

22 Q. Well, forget the machete part. Did you
23 participate in the attempted murder of an 18th Street
24 gang member?

25 A. Yes.

1 Q. All right. When was that?

2 A. I don't remember the date, but, yes.

3 Q. Is that something that you disclosed to the
4 prosecutors in this case?

5 A. Yes.

6 Q. So, I'm assuming, then, that they're not going to
7 charge you for that either?

8 A. No.

9 Q. All right. You said that you were, in essence, a
10 drug dealer, right?

11 A. Yes.

12 Q. You sold crystal meth?

13 A. Yes.

14 Q. You sold cocaine?

15 A. Yes.

16 Q. You sold heroin?

17 A. Yes.

18 Q. And marijuana?

19 A. Yes.

20 Q. And, you're not going to be charged for those
21 offenses either, are you?

22 A. No.

23 Q. No, you -- you agree with me that you're not
24 going to be charged for those offenses?

25 A. No.

1 Q. Let's go back. Let me clear it up, because I
2 think I may be losing something in translation. It's
3 not your fault. It's my fault.

4 When you -- this drug dealing that you just
5 mentioned, you disclosed that to the prosecutors?

6 A. Yes.

7 Q. And, it's your understanding that they will not
8 charge you with those offenses?

9 A. I understand that, yes.

10 Q. You also smuggled drugs into prison, right?

11 A. Yes.

12 Q. All right. Not while you were in prison, but
13 while your homeboys were in prison?

14 A. Yes.

15 Q. And, what I mean, "assisted," you provided them
16 with drugs while they were inside the prison?

17 A. Yes.

18 Q. And, your understanding is that the -- I'm
19 assuming you disclosed that to the prosecutes as well?

20 A. Yes.

21 Q. And your understanding is that you will not be
22 prosecuted for those offenses of smuggling drugs into
23 prison, right?

24 A. Yes.

25 Q. All right. Now, you joined MS-13 sometime in

1 2010; is that about right?

2 A. No.

3 Q. When did you join MS-13?

4 A. About the end of 2012.

5 Q. End of 2012.

6 A. Yes.

7 Q. All right. We've heard testimony that sometime
8 in 2008 and -- I'm sorry -- that sometime in 2008, MS-13
9 changed the rules as far as how you go from *chequeo* to
10 homeboy.

11 A. I believe that, yes.

12 Q. And that rule change was that in order to go from
13 *chequeo* to homeboy, you had to kill somebody?

14 A. Well, I think so, but, in this country, it's
15 different.

16 Q. Who did you kill, Mr. Marquez, to go from *chequeo*
17 to homeboy?

18 A. Nobody.

19 Q. Do you recall having a conversation with the
20 mother of your daughter, Belén, about killing an
21 eight-year-old girl named Juliette?

22 A. No.

23 Q. I'm not asking you if you did it. Right now I'm
24 asking you if you recall having a conversation with
25 Belén about you killing an eight-year-old girl named

1 Juliette.

2 A. I don't remember, no.

3 THE INTERPRETER: Eight years old girl.

4 Well, the girl had -- was 18 years old --

5 (Off the record with interpreters.)

6 BY MR. LEIVA:

7 Q. Let me ask it a different way, since there may
8 have been something lost in translation.

9 Do you recall having a conversation with Belén,
10 where you told her that you killed the daughter of a
11 *chavala*?

12 A. No.

13 Q. You didn't tell her that you killed the daughter
14 of a *chavala* named Droopy?

15 Droopy.

16 THE INTERPRETER: Oh, Droopy.

17 THE WITNESS: No, I don't remember that.

18 BY MR. LEIVA:

19 Q. Do you recall having a conversation, again with
20 the mother of your daughter, Belén, where you told her
21 that in 2013, you killed a man under a bridge.

22 A. I remember a conversation similar to that one,
23 but not exactly like what you said.

24 Q. Okay. So, you remember having a conversation
25 with Belén about you killing somebody?

1 A. Not that I killed somebody.

2 Q. Were you asked the question by the government, by
3 the prosecutors, during your meetings with them, about
4 your involvement or potential involvement in killing the
5 daughter of a *chavala*?

6 A. No.

7 Q. They didn't ask you that?

8 A. No.

9 Q. Did they ask you about your involvement in 2013,
10 about killing this man under a bridge?

11 A. No.

12 Q. Now, you knew -- did you know my client,
13 Mr. Lopez Torres, before you got jumped in -- I'm
14 sorry -- before you joined MS-13?

15 A. A couple of times.

16 Q. A couple of times.

17 How long have you known Mr. Lopez Torres,
18 Mr. Marquez?

19 A. Well, the first time I saw him, it was in the
20 beginning of 2012.

21 Q. All right. And, you guys developed a friendship?

22 A. No.

23 Q. Okay. So, you do know that he has a mother in
24 El Salvador, right?

25 A. Yes.

1 Q. And, you know that all his young siblings are
2 still in El Salvador?

3 A. Yes.

4 Q. So, he's basically just here alone, right? You
5 know that?

6 A. Yes.

7 Q. All right. And, I'm assuming that given your
8 activity within MS-13, you also met an individual named
9 Junior?

10 A. Yes.

11 Q. All right. And Junior was a first word of the
12 Silvas clique; is that correct?

13 A. Yes.

14 Q. All right. And Junior was also the head of the
15 East Coast program, correct?

16 A. Yes.

17 Q. Right. And, Junior -- you knew of Junior's
18 reputation, right?

19 A. Yes.

20 Q. He was known as a violent person. Would you
21 agree with that?

22 THE INTERPRETER: Excuse me?

23 BY MR. LEIVA:

24 Q. A violent person?

25 A. Well, to tell you the truth, when I saw him, he

1 didn't look violent. And I never did anything violent
2 with him.

3 Q. Okay. Let me ask it this way. I think it got
4 lost in the translation. Did you know Junior to have a
5 reputation as a violent person?

6 A. Yes.

7 Q. He was a tough guy, right?

8 A. Yes.

9 Q. He was involved with selling drugs?

10 A. I believe so.

11 Q. And, was there an incident that you had with
12 Junior regarding money from a brothel? Do you recall
13 that.

14 A. Yes.

15 Q. All right. And that incident was that you and
16 another homeboy went to a brothel to collect money,
17 right?

18 A. Yes.

19 Q. And you guys got the money from the person who
20 was running the brothel?

21 A. No.

22 Q. Okay. So, as a result of you trying to get money
23 from the owner of that brothel, is that how you came
24 into contact with Junior at some point?

25 A. No.

1 Q. All right. So, why don't you tell us then, what
2 was this incident that you had with Junior regarding a
3 brothel?

4 A. Well, it was with his clique, the Silvas. But, I
5 didn't know him at that time.

6 Q. But you knew he was running that clique?

7 A. No, at that time when we had that problem, I
8 didn't know.

9 Q. All right. And the problem you had with the
10 Silvas clique was that they were claiming that that
11 brothel was in their territory. Is that what was going
12 on?

13 A. Yes.

14 Q. All right. Now, you testified that you
15 participated in MS-13 meetings every two weeks; is that
16 correct?

17 A. Yes.

18 Q. And, you guys discussed drugs?

19 A. Yes.

20 Q. Money?

21 A. Yes.

22 Q. And what you said were *pegadas*?

23 A. Yes.

24 Q. And *pegadas* means what?

25 A. Murder.

1 THE COURT: Can you spell that for us.

2 MR. LEIVA: Yes, p-e-g-a-d-a-s.

3 THE COURT: Thank you.

4 BY MR. LEIVA:

5 Q. So, your testimony is that for every two weeks --
6 that's twice a month, right, 24 times a year, you guys
7 talked about killing people?

8 A. Yes.

9 Q. And, you're sticking to your story that other
10 than participating in the murder of Lagrima, you
11 murdered no one else?

12 A. Yes.

13 Q. Let's move on to the incident with Peligroso. Is
14 it correct that you heard rumors that Peligroso was down
15 in Woodbridge jumping in people?

16 A. I think I heard that.

17 Q. All right. And by jumping people, that means
18 that he was jumping people into MS-13?

19 A. Yes.

20 Q. And, the rumors that you heard was that he was
21 trying to set up his own clique down in Woodbridge; is
22 that correct?

23 A. Yes, I think I heard something about that, too.

24 Q. And at that time that Peligroso was down in
25 Woodbridge jumping people in to establish his own

1 clique, Payaso was the first word of your clique?

2 A. Yes.

3 Q. All right. And, his cousin, Demente, was the
4 second word?

5 A. Yes.

6 Q. And, would you agree with me that one of the
7 benefits of being a first word or a second word is that
8 you get to share in the profits of the money that the --
9 the money that the clique makes?

10 A. Yes.

11 Q. So, if you have someone like Peligroso trying to
12 form his own clique and jumping in his own people, that
13 kinds of affects your bottom line as a first word or a
14 second word. Would you agree with that?

15 A. Yes.

16 Q. Let me -- let me -- let me see if I understand
17 another portion of your testimony regarding Peligroso.

18 You were not involved in the phone calls when
19 there was discussion about punishing Peligroso; is that
20 correct?

21 A. No.

22 Q. Okay. And, can I infer from that, that you did
23 not hear any conversations between people in El Salvador
24 and the first word and the second word in your clique
25 about what punishment should be given to Peligroso, if

1 any?

2 A. Not on the -- not by phone.

3 Q. And, when you say "not by phone," you mean is, is
4 that the only discussions you heard about what
5 punishment should be administered to Peligroso came from
6 either -- Demente?

7 A. Well, from him and from others within the clique.

8 Q. But, as far as hearing it directly from someone
9 in a leadership position in your clique, you only heard
10 it come from Demente?

11 A. No.

12 Q. You heard it from Payaso?

13 A. Yes.

14 Q. All right.

15 A. Yes.

16 Q. And again, they were the first and second word of
17 your clique, right?

18 A. Yes.

19 Q. All right. So, let's talk about the day,
20 October 1st, 2013, the day that your clique was going to
21 administer punishment on Peligroso.

22 A. All right.

23 Q. Before I get into that, let me just take one step
24 back and let me ask you that, as part of your
25 cooperation, you met several times with FBI agents?

1 A. Yes.

2 Q. Several meetings with prosecutors?

3 A. Yes.

4 Q. And, your attorneys were also present during
5 those meetings?

6 A. Yes.

7 Q. Okay. So, let's focus now on October, what you
8 told the FBI agents and the prosecutors during these
9 meetings.

10 A. Okay.

11 Q. You recall telling them that you were waiting for
12 Demente to arrive in the Culmore area, correct?

13 A. Well, not only me; all the homies, we were all
14 there.

15 Q. All right. Who were all the homies that were
16 there waiting for Demente to come?

17 A. Well, Greñas, Lil Poison, Leopardo. I was there.

18 Q. All right.

19 A. And also a *paro* who was there.

20 Q. All right. And, Demente showed up with Drowsy in
21 his car, correct?

22 A. Yes.

23 THE COURT: Counsel, we're going to take the
24 morning recess now for 15 minutes. Thank you.

25 MR. LEIVA: Yes, sir. Thank you.

1 (Court recessed at 11:31 a.m. and reconvened
2 at 11:48 a.m.)

3 (Jury not present.)

4 MR. LEIVA: Your Honor, before the jury
5 comes out, I understand one of my colleagues has a brief
6 motion.

7 THE COURT: All right.

8 MR. SALVATO: It's not really a motion, just
9 a quick request, Your Honor.

10 We filed over the weekend a renewed motion
11 with regard to severance. I understand the government's
12 going to respond. I don't want to deal with that at
13 this point.

14 However, we are asking the Court for a
15 modicum of relief in terms of the order of
16 cross-examination. It's -- what's taking place in the
17 trial is that when Mr. Chick comes up last, and we don't
18 have an ability to recross, he's really taken the
19 initiative to kind of point the finger at everybody
20 else, obviously, except his client.

21 We would like, after counsel, Mr. Leiva
22 goes, that Mr. Chick be second in line for this witness,
23 so that we can deal with and rehabilitate and clean up
24 any finger pointing that he may do towards our clients.

25 We've talked to Mr. Chick. He's not

1 agreeable to that --

2 THE COURT: Just for this witness?

3 MR. SALVATO: For this witness; and then we
4 would bring it up if need be on another witness. But
5 for this witness, we would like Mr. Chick to go second.

6 THE COURT: All right.

7 MR. SALVATO: That's our request.

8 THE COURT: Thank you.

9 The motion is granted.

10 Bring the jury out.

11 (Jury present.)

12 THE COURT: You may be seated.

13 Counsel, you may proceed.

14 MR. LEIVA: Yes.

15 CROSS-EXAMINATION (Continued)

16 BY MR. LEIVA:

17 Q. Mr. Marquez, I believe when we left off you and
18 some other homeboys were in Culmore waiting for --

19 MR. LEIVA: I'm sorry, Your Honor.

20 THE INTERPRETER: I apologize. Go ahead.

21 BY MR. LEIVA:

22 Q. Mr. Marquez, I believe when we left off, you and
23 some other homeboys were in Culmore waiting for Demente
24 to show up?

25 A. Yes.

1 Q. And, Demente actually arrived with Drowsy in the
2 car, right?

3 A. Yes.

4 Q. And, when Demente and Drowsy arrived together in
5 Culmore, you noticed that there was a 12-gauge shotgun
6 and machete already in the car?

7 A. Yes.

8 Q. All right. And, that was while you and the
9 homeboys were still outside, you were able to see that
10 he had these weapons in the car?

11 A. Yes.

12 Q. Okay. And, one of the homeboys that was outside
13 the car, I believe, you testified to already, was
14 Mr. Lopez Torres, right?

15 A. Yes.

16 Q. He was pretty close to you, I would -- I would
17 assume?

18 A. I think so.

19 Q. All right. And, it was known to you guys that
20 Demente had a 12-gauge shotgun, right?

21 A. Yes.

22 Q. While we're on the topic of guns, you testified
23 on direct that you at one point also possessed a 22?

24 A. Yes.

25 Q. And, correct me if I'm wrong, but your role in

1 your gang was you were the drug guy, right? The
2 narcotics man?

3 A. Yes.

4 Q. You had testified on direct, I believe it was
5 last week, that before you became a member of MS-13,
6 that the older homeboys knew you?

7 A. Yes.

8 Q. And, they knew you because of your drug activity?

9 A. Yes.

10 Q. All right. And, you were pretty good at what you
11 did, being a drug dealer. Would you agree with me?

12 A. Yes.

13 Q. You -- you were still in your teens, right, when
14 you started doing it?

15 A. Yes.

16 Q. All right. You had your own apartment, right?

17 A. No.

18 Q. Well, at some point -- well, how old are you
19 right now? You're 22?

20 A. Yes, 22.

21 Q. All right. And, most of these things that you
22 testified to, dealing with Lagrima and Peligroso,
23 happened in 2013?

24 A. Yes.

25 Q. So, you were about 20 years old?

1 A. Yes.

2 Q. And, at least during that time period, you had
3 your own apartment?

4 A. I have a room.

5 Q. Okay. So, you testified that -- that you saw
6 Mr. Lopez Torres get in the car along with Demente and
7 Drowsy. Do you recall that?

8 A. Yes.

9 Q. And, the *chequeo*, was he there with you guys as
10 well, when Drowsy and Demente showed up?

11 A. Yes.

12 Q. All right. And that was Marciano?

13 A. Yes.

14 Q. Okay. And, from what your understanding was
15 about what was going to happen to Peligroso, was that it
16 was Drowsy and Marciano that were supposed to administer
17 the punishment on Peligroso?

18 A. All of us that were there, not just them.

19 Q. Okay. And, your understanding was that Lagrima
20 was supposed to participate as well?

21 A. Yes.

22 Q. All right. So, the original members that were
23 supposed to go down were Drowsy, yes?

24 THE INTERPRETER: Could you repeat that,
25 please.

1 BY MR. LEIVA:

2 Q. So, the plan was originally that it would be
3 Drowsy?

4 A. Yes.

5 Q. Marciano?

6 A. Yes.

7 Q. Okay. Lagrima?

8 A. Yes.

9 Q. And Demente?

10 A. Yes.

11 Q. Okay. So, at some point -- was it later that
12 evening or the next morning that you claimed you
13 received a call from Mr. Lopez Torres?

14 A. It was in the same day, at night.

15 Q. So, he made a call to you that same day, at
16 night, and he told you that the police were there at
17 this high school?

18 A. Yes, he called me and other homeboys as well.

19 Q. And he told you that he was not under arrest?

20 A. Yes.

21 Q. All right. And he also told you in that
22 conversation that he thought that Drowsy was the snitch.
23 Do you recall that?

24 A. Yes.

25 Q. Okay. And, when he had a conversation with you

1 that he heard someone next -- well, do you recall him
2 telling you that he was taken to a police station?

3 A. Yes.

4 Q. And, he told you that all of them were taken to a
5 police station, everyone in that car.

6 A. Yes.

7 Q. All right. And, do you recall that his
8 conversation with you was that he heard Drowsy in the
9 next room, and not that Lagrima was in the next room, in
10 the police station?

11 THE INTERPRETER: And not that Lagrima?

12 BY MR. LEIVA:

13 Q. Not Lagrima.

14 A. No. He said that it was Lagrima.

15 Q. But, you knew that Lagrima didn't -- wasn't in
16 the car, right?

17 A. Yes, I knew that he was not in the car.

18 Q. And, so, did you -- when he said that to you, did
19 you say to him, "Well, how does that make sense?
20 Lagrima wasn't with you guys, so why would Lagrima be in
21 the next interviewing room to you?"

22 A. So, Lagrima was just dressed normally with
23 regular clothing, so, maybe he thought that he had gone
24 in a separate car there to the station.

25 Q. I didn't ask you what he thought. All right.

1 Let me go back to two questions that I asked before, two
2 questions ago.

3 What he told you was -- is that the voice that he
4 heard in the next interview room was that of Drowsy.

5 MS. MARTINEZ: Objection, Your Honor.
6 That's been asked and answered.

7 THE COURT: Sustained.

8 BY MR. LEIVA:

9 Q. So, at some point, Mr. Marquez, there was further
10 discussion about how it was that the police were there
11 at this high school.

12 A. Yes, yes, a few things were said.

13 Q. Right. And, when you say a few things were said,
14 again, Drowsy's name came up as someone who was possibly
15 the informant?

16 A. Yes.

17 Q. Let's go ahead and move on to this issue with
18 Lagrima. You knew Lagrima -- let me ask you this: How
19 long prior to 2013 had you known Lagrima?

20 A. About a year.

21 Q. All right. And Lagrima -- please tell the
22 members of the jury, what that means, that name Lagrima?

23 A. We call him Lagrima because he has two teardrops
24 tattooed right here (indicating).

25 Q. And, within the MS-13 culture, a teardrop

1 represents that he has killed somebody, right?

2 A. Yes.

3 Q. And two teardrops means that he killed two
4 people?

5 A. Yes.

6 Q. All right. And, Lagrima was a bad guy, wasn't
7 he?

8 A. Yes.

9 Q. He was accused of raping a 15- or 16-year-old
10 girl?

11 A. I'm not sure about that.

12 Q. You had heard that he was being accused of raping
13 a --

14 A. I never heard that.

15 Q. All right. You know that he participated in the
16 murder of an 18th Street gang member?

17 A. Yes.

18 Q. All right. And, in fact, people within your own
19 group didn't like him, right?

20 A. Yes.

21 Q. He was a loud mouth?

22 A. Yes.

23 Q. He would get drunk all the time?

24 A. Yes.

25 Q. Always wanted to commit acts of violence?

1 A. Yes.

2 Q. Now, when there was discussion about punishing
3 Lagrima, do you recall that you informed agents or
4 prosecutors that Big Payaso initially told everyone that
5 Lagrima would receive a *calentón*?

6 A. Yes.

7 Q. All right. And, Big Payaso is the same guy as
8 Payaso, the one who was in jail during this time?

9 A. Yes.

10 Q. Okay. And, there was subsequently a meeting --
11 well, let's go back.

12 Do you recall, during one of your meetings with
13 prosecutors and the FBI agent, you testified that there
14 was a meeting where Big Payaso gave the order to kill
15 Lagrima?

16 A. Yes.

17 Q. And, do you recall also telling them that
18 Mr. Lopez Torres was not present at that meeting?

19 A. No, I don't remember that.

20 Q. You don't remember telling them that?

21 A. Well, I don't understand the question very well.

22 Q. Okay. You don't understand the question. So why
23 don't we do this: You had about what, four or five
24 meetings with FBI agents and the prosecutors?

25 A. Yes.

1 Q. All right. And, during all those meetings, you
2 had your attorney or attorneys there as well?

3 A. Yes.

4 Q. And, do you recall having a meeting on March 1st
5 of this year, 20 days before this trial started?

6 A. Yes.

7 Q. And, at that meeting, do you recall telling the
8 people present at that meeting that Mr. Lopez Torres was
9 not present when Big Payaso gave the order to kill
10 Lagrima?

11 A. I don't remember having told that he was not
12 there.

13 MR. LEIVA: Excuse me.

14 MS. MARTINEZ: Court's indulgence, Your
15 Honor.

16 THE COURT: All right.

17 (Off the record discussion.)

18 BY MR. LEIVA:

19 Q. Let me do this, Mr. Marquez. Let me rephrase the
20 question differently, instead of pinpointing a specific
21 meeting that you had.

22 Do you recall at any of the meetings that you had
23 with the FBI agents, telling them that when Big Payaso
24 gave the order to kill Lagrima, Mr. Lopez Torres was not
25 present?

1 A. Yes.

2 Q. So, you did -- okay. Yes. All right.

3 So, let's talk about the evening when Lagrima was
4 killed. You, of course, were present?

5 A. Yes.

6 Q. And Lagrima was a pretty tall guy, was he not?

7 A. Yes.

8 Q. About your height?

9 A. A little bit more.

10 Q. And, you were -- would it be fair to say that you
11 and Lagrima were probably the two tallest members of
12 your particular clique?

13 A. Yes.

14 Q. All right. And, because of your size, you were
15 specifically tasked with taking down Lagrima?

16 A. Yes.

17 Q. And, my client, Mr. Lopez Torres, is probably one
18 of the smaller members of the your clique. Would you
19 agree with that?

20 A. Yes.

21 Q. All right. So, according to you, a plan was
22 hatched out where Lagrima was to be taken to -- or told
23 to meet you guys at this park where you have your
24 regular meetings, correct?

25 A. Yes.

1 Q. And, that Lagrima was told that he would receive
2 a *calentón*?

3 A. Yes.

4 Q. All right. And, when administering the *calentón*,
5 everyone forms a circle; is that right?

6 A. Yes.

7 Q. All right. And, Lagrima had to stand in the
8 middle of that circle?

9 A. Yes.

10 Q. And, you testified that Mr. Lopez Torres counted,
11 correct?

12 A. Yes.

13 Q. Okay. And, the *calentón*, was this a 13-second
14 *calentón* or a 26-second *calentón*?

15 A. Twenty-six seconds.

16 Q. So, then, let's -- the *calentón* starts. And, the
17 people who were administering the beating are you and
18 two other homeboys, right?

19 A. Yes.

20 Q. Not Mr. Lopez Torres?

21 A. No.

22 Q. He just counted?

23 A. Yes.

24 Q. Then at that point, then, you know what your job
25 is. You take down Lagrima?

1 A. Yes.

2 Q. And, then some other homeboys jump in and hold
3 him as well?

4 A. Yes.

5 Q. All right. And, at some point, then, another
6 homeboy starts stabbing Lagrima?

7 A. Yes.

8 Q. And I believe you said that that particular
9 homeboy attempted to stab Lagrima?

10 A. Yes.

11 Q. All right. But he was having difficulties doing
12 so?

13 A. Yes.

14 Q. And, you being one of the bigger men in your
15 clique, I'm sure you saw that he was having difficulties
16 stabbing Lagrima?

17 A. Yes.

18 Q. So, that you also jumped in to help in stabbing
19 Lagrima?

20 A. No.

21 Q. All right. So, throughout this ordeal, is it
22 your testimony that you did not stab Lagrima once?

23 A. Yes.

24 Q. You being the bigger guy?

25 A. Yes.

1 Q. All right. Well, maybe I'm using the wrong term,
2 then, by saying "stab." Did you ever whack Lagrima with
3 a machete?

4 A. No.

5 Q. So, you're telling Judge Lee and the members of
6 this jury that, as one of the bigger members of the
7 clique, all you did was just hold down Lagrima?

8 A. Yes.

9 Q. Even though central to this plan was you, because
10 you were one of the bigger guys in the clique?

11 A. Yes.

12 Q. And, your testimony is that all you did was hold
13 him down by the arm or by the leg?

14 A. Yes.

15 Q. So, both, you held him down by his arm and his
16 leg?

17 A. Only the arms.

18 Q. At some point then, Mr. Marquez, Lagrima passes
19 away, right?

20 A. Yes.

21 Q. And, although you're testifying today that you
22 did not stab him or hit him with a machete, you dragged
23 his body into a predug hole. Is that your testimony?

24 A. Yes.

25 Q. And, Mr. Lopez Torres did not assist you in

1 dragging Lagrima's body into this hole; is that correct?

2 A. I don't remember him helping me.

3 Q. Okay. Let's go back to this timeline,
4 Mr. Marquez. We already established that you were
5 arrested in January of 2014 for state charges.

6 A. Yes.

7 Q. And, up -- on that date, of course, the
8 government had not yet discovered the bodies of either
9 Lagrima or Gerson Martinez?

10 A. Yes.

11 Q. And, within two weeks of being arrested in
12 January of 2014, you had told your mother that you would
13 seek a cooperation deal, right?

14 A. Yes.

15 Q. You had told your girlfriend, Rosie, that you
16 would be seeking some form of cooperation, right?

17 A. Yes.

18 Q. And, you told the mother of your child, Belén or
19 Belen, that you would be seeking cooperation?

20 A. Yes.

21 Q. And that was all within two weeks of your being
22 arrested on state charges?

23 A. Something like that.

24 Q. So, you couldn't even hack two weeks in jail and
25 you were already thinking of cooperating?

1 A. Two weeks, a little bit more.

2 Q. So, correct me if I'm wrong. Out on the streets
3 you were this tough guy, right?

4 A. Yes.

5 Q. You would threaten people with physical violence?

6 A. Yes.

7 Q. You would have meetings about going to look for
8 rival gang members and killing them?

9 A. Yes.

10 Q. You would talk about how you were looking forward
11 to killing people?

12 A. Yes.

13 Q. But, two weeks in jail was enough for you, right?

14 A. Yes.

15 Q. And, when you were talking to your mother, the
16 mother of your daughter and your girlfriend, you had an
17 idea of what you wanted in return for cooperation on the
18 state charges, correct?

19 A. Yes.

20 Q. Right. You told them that you would ask the
21 government to protect your girlfriend, Rosie?

22 A. Yes.

23 Q. Right. You told -- when I say "them," I'm
24 referring to Belén, Rosie and your mother. You told
25 them that you would seek legal protection in this

1 country?

2 A. Yes.

3 Q. And again at this point, you haven't even been
4 charged with murder yet?

5 A. Yes.

6 Q. And then, of course, you found out that there was
7 an ICE detainer lodged against you?

8 A. Yes.

9 Q. And, in January, you told your mother that
10 there's no way that you could go back to El Salvador?

11 A. Yes.

12 Q. So, at that point, in January again, before these
13 murders were discovered, you realized that jail is
14 something that you could not handle?

15 A. Yes.

16 Q. And, that you could not think of going back to
17 your native country of El Salvador?

18 A. Yes.

19 Q. And, I'm assuming that you could not fathom the
20 idea of not seeing your little daughter again?

21 A. Yes.

22 Q. And, again, this is all before you were even
23 charged with murder?

24 A. Yes.

25 Q. So, even though you have been telling the women

1 in your life that you were going to cooperate, you
2 didn't officially start cooperating until November of
3 2015; is that correct?

4 A. Yes.

5 Q. From January of 2014 until November of 2015, you
6 were still conducting gang business while you were in
7 jail; is that correct?

8 A. For a while.

9 Q. Because of course, in your plan, you were going
10 to be forgiven for everything because you were going to
11 cooperate?

12 A. Yes.

13 Q. And, when I mean participate in gang activity, I
14 think you said last week on direct that you served as
15 a -- in a leadership position for the gang without being
16 named a first word?

17 A. Yes.

18 Q. Then sometime -- why don't you tell me. When did
19 you find out that you were indicted with murder?

20 A. Like September 2014.

21 Q. So, I'm assuming since you had difficulties
22 dealing with these state charges, once you were
23 served -- or once you were told that you would be
24 charged with murder, I'm sure that must have taken a
25 heavy toll on you.

1 A. Yes.

2 Q. At that point, you realized that you needed to do
3 whatever you had to do to make sure you didn't spend the
4 rest of your life in prison?

5 A. Yes.

6 Q. So, let's go back to this -- this interim date
7 before you were charged with murder. You said you were
8 still conducting gang business?

9 A. Yes.

10 Q. At that time, Rosie was your girlfriend, right?

11 A. Yes.

12 Q. And, the relationship that you had with Belén,
13 it's just that she was the mother of your daughter?

14 A. Yes.

15 Q. So, Rosie was your principal -- let's put it in
16 street jargon -- she was your principal girl?

17 A. Yes.

18 Q. All right. And, Gerson didn't have any romantic
19 relationship -- Gerson Martinez didn't have any romantic
20 relationship with Rosie, did he?

21 A. Not that I know.

22 Q. And, in fact, when you were talking to your
23 homeboys from jail, you told them that you didn't care
24 who Belén was seeing or dating; is that correct?

25 A. Yes.

1 Q. And you even told the agents, when you were asked
2 by them, you told them that you didn't care who Belén
3 was romantically involved with?

4 A. Yes.

5 Q. And, during this interim period, again from
6 January until September of 2015, you actually had
7 discussions with some of your homeboys about killing
8 Belén, did you not?

9 A. Yes.

10 Q. And, again, Belén being the mother of your
11 daughter?

12 A. Yes.

13 Q. And, you told them in these conversations that if
14 you were out of jail, you would kill her yourself?

15 A. Yes.

16 Q. And, during those conversations that you had with
17 your homeboys, you also complained that Gerson Martinez
18 had taken \$600 of rent money from Belén?

19 A. Yes.

20 MR. LEIVA: I'm sorry. I think it was
21 misinterpreted, Your Honor.

22 BY MR. LEIVA:

23 Q. You were told that Gerson took \$600 which
24 belonged to Belén, which she was going to use for rent
25 money?

1 A. Yes.

2 Q. Now, you answered on direct that at one point,
3 you had a good relationship with Gerson Martinez, but
4 then it deteriorated.

5 A. Yes.

6 Q. And, I believe -- and correct me if I'm wrong --
7 that your testimony was that the relationship
8 deteriorated when you believed he was inside a bathroom
9 with Belén?

10 A. Yes.

11 Q. And, you had suspected that both of them had been
12 smoking crystal meth in that bathroom?

13 A. Yes.

14 Q. And, before you went to jail, you knew or you
15 suspected that Gerson Martinez was abusing crystal meth.
16 Would you agree with that?

17 A. Yes.

18 Q. Other than using, you suspected that he was
19 abusing crystal meth as well.

20 A. Yes.

21 Q. But your testimony to the members of this jury
22 and to Judge Lee is that when you went to jail, you
23 asked Gerson Martinez to be the one to watch over your
24 daughter?

25 A. Yes.

1 Q. That you trusted this person, who you knew was
2 abusing crystal meth, to watch over your child?

3 A. Yes.

4 Q. And you, in fact, asked him to move into your
5 home in order to watch over your child?

6 A. Yes.

7 Q. But at some point then, while you're in jail, and
8 before you start cooperating with the government, you
9 suggest to your homeboys that they should kill
10 Mr. Gerson Martinez, right?

11 A. Well, we talked about it.

12 Q. And, when you say "we talked about it," you told
13 them that he took \$600 that belonged to Belén, which
14 were the 600 -- I'm sorry. Let me go back. Let me go
15 back.

16 When you say that "we talked about it," you
17 mentioned to your homeboys that Gerson took Belén's rent
18 money.

19 A. Yes.

20 Q. And so would it be fair to say, then, that you
21 planted this seed inside the minds of these homeboys
22 that they needed to do something to Gerson?

23 A. Yes.

24 Q. And again, your plan was that once you would
25 start cooperating with the government, they wouldn't

1 charge you with Gerson's murder?

2 A. Well, that was not my plan.

3 Q. Well, that's how it worked out, right?

4 A. Well, yes.

5 Q. You're kind of like that person who knows they're
6 going to file for bankruptcy and racks up as much debt
7 as possible because they know it's going to be
8 discharged?

9 MS. MARTINEZ: Objection, Your Honor.

10 THE COURT: Sustained. Let's focus on this
11 case.

12 MR. LEIVA: Yes, sir.

13 BY MR. LEIVA:

14 Q. So at some point, Mr. Marquez, I'm assuming that
15 you started to worry that -- well, let me go back.

16 Belén, the mother of your child, did you suspect
17 that she was also abusing drugs?

18 A. I did not suspect. I knew she used drugs.

19 Q. Okay. And, she was using, what, crystal meth?

20 A. She did that only once, when I found her with
21 Gerson.

22 Q. So, did you think she was abusing heroin?

23 A. She told me that she did it once, but that was
24 before we met.

25 Q. Okay. I'm sorry. I thought you told me that you

1 knew that she was abusing drugs.

2 A. Yes.

3 Q. All right. So, which drug then -- rather than me
4 going down the list of all the drugs, which drug did you
5 suspect she was abusing?

6 A. Marijuana.

7 Q. So, you have someone who's abusing crystal meth
8 living in your house, right, and you had Belén, who you
9 said is abusing marijuana.

10 A. Yes.

11 Q. So at some point, then, the idea must have
12 crossed your mind that Belén was going to tell Gerson
13 that you were agreeing to cooperate?

14 A. I never thought that she would do it.

15 Q. That never crossed your mind?

16 A. No.

17 Q. And, isn't that the reason why you planted this
18 seed in the minds of your homeboys to kill Gerson,
19 before that happened?

20 A. No.

21 Q. You just planted that seed just because he took
22 \$600 of the rent money from your girlfriend -- from your
23 mom's baby?

24 MS. MARTINEZ: Objection, Your Honor. Asked
25 and answered.

1 THE COURT: Sustained.

2 MR. LEIVA: That's all the questions I have.

3 THE COURT: You may proceed.

4 MR. CHICK: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. CHICK:

7 Q. Good afternoon, sir. How are you?

8 A. I'm doing well. Good afternoon.

9 Q. I'm going to ask you first about the thing that
10 you talked about, the shooting that happened on
11 December 21st of 2013. Okay?

12 A. Okay.

13 Q. Um, so, basically, the way that it sounds like it
14 was described is it was a bunch of -- a bunch of guys
15 chased somebody into an apartment, right?

16 A. Yes.

17 Q. And then at that point, one of those guys shot a
18 firearm into the apartment, right?

19 A. Yes.

20 Q. Okay. And Douglas was the one that had the
21 firearm and he was the one that shot the firearm?

22 A. Yes.

23 Q. Okay. And he's not here in the courtroom today,
24 right?

25 A. I don't see him.

1 Q. Okay. And, I -- who else did you say was there?

2 A. The entire clique, basically.

3 Q. Okay. Can you tell me the names of the people
4 who were there?

5 A. It was myself, Lil Poison, Leopardo, Lil Evil,
6 Lil Slow, Greñas, Solitario, Gerson.

7 Q. Okay. As far as you know, you were the only
8 person who was charged with that crime, right?

9 A. Yes.

10 Q. Okay. Um, you said that Solitario was there?

11 A. Yes.

12 Q. And, I think the first time that you talked --
13 the very first time that you talked to the police, you
14 did not tell them that Solitario was there; is that
15 right?

16 A. Yes.

17 Q. Okay. And then, later on when you met with them
18 after you decided about the cooperation, that's when you
19 told them that Solitario was there.

20 A. Yes.

21 Q. Do you remember what he was wearing on that
22 night?

23 A. No.

24 Q. Okay. And you know he had a job at Marshalls,
25 right?

1 A. Yes.

2 Q. Okay. And I assume, since he was with you on
3 that night -- this happened at about 8:00 o'clock,
4 right?

5 A. It was later.

6 Q. Later than 8:00 p.m.?

7 A. Yes.

8 Q. How much later than 8:00 p.m.?

9 A. I would always go to the disco around 10:00, so
10 it was around that time.

11 Q. Around 10:00 o'clock?

12 A. At 10:00 or a bit later.

13 Q. Okay. Do you know what time the police report
14 says it happened?

15 A. No.

16 Q. Okay. Um, so let me get back to Solitario.
17 Since he was with you on that night, there was no way he
18 could have been at his job at Marshalls then, right?

19 A. I remember that he was there with me -- with us.

20 Q. Okay. And, so, if he did clock in at work at
21 Marshalls at 6:00 p.m., and if he had stayed there until
22 12:00 a.m., he -- he obviously couldn't have been there
23 with you, right?

24 MS. MARTINEZ: Objection, Your Honor,
25 compound question.

1 THE COURT: Sustained.

2 MR. CHICK: Okay.

3 BY MR. CHICK:

4 Q. If he was at work, he couldn't have been there
5 with you; is that fair to say?

6 A. Yes.

7 Q. Okay. But you're testifying here today under
8 oath that you're positive that he was there with you on
9 that night, right?

10 A. Yes, he was there.

11 Q. Okay. There were several -- aside from the group
12 of people from the clique, there were several other
13 eyewitnesses who were around, right?

14 A. Yes.

15 Q. Okay. And, this happened in the Culmore
16 neighborhood?

17 A. Yes.

18 Q. And, that's a neighborhood where you lived,
19 right?

20 A. Yes. Uh-huh.

21 Q. And, it's also the same neighborhood that
22 Solitario lived with his mom, right?

23 A. Yes.

24 Q. So, people in the neighborhood know you?

25 A. Yes.

1 Q. People in the neighborhood knew Solitario?

2 A. Probably.

3 Q. Okay. The eyewitnesses who were there, they
4 identified you as having been there at the shooting,
5 right?

6 MS. MARTINEZ: Objection, Your Honor, lack
7 of foundation.

8 THE COURT: Sustained.

9 BY MR. CHICK:

10 Q. When you were -- when you decided that you were
11 going to cooperate with the police, it was because you
12 knew that there was enough -- you were told there was
13 enough evidence to convict you of that crime, right?

14 A. About the shooting?

15 Q. About the shooting.

16 A. No, they did not have evidence, and I knew it.

17 Q. They didn't tell you there were eyewitnesses that
18 identified you?

19 MS. MARTINEZ: Objection, Your Honor, calls
20 for hearsay.

21 THE COURT: Sustained.

22 BY MR. CHICK:

23 Q. Do you know whether any eyewitnesses identified
24 Solitario?

25 MS. MARTINEZ: Objection, Your Honor, lack

1 of foundation.

2 MR. CHICK: Judge, I'm asking him if he
3 knows.

4 THE COURT: And the subject of that would be
5 hearsay, would it not, Mr. Chick?

6 MR. CHICK: Whether he knows or not.

7 THE COURT: Unless he was personally
8 present, he would be testifying to hearsay. Objection
9 sustained.

10 MR. CHICK: Yes, sir.

11 THE COURT: Next question.

12 BY MR. CHICK:

13 Q. Did you talk to any of the eyewitnesses who were
14 there?

15 A. No.

16 Q. So, it's fair to say that you're hoping that by
17 implicating these guys, that you're going to get a
18 sentence that's much better than life without a
19 possibility of parole, right?

20 A. Yes.

21 Q. Okay. And, when you talked to the police about
22 everything that happened -- I'm going to keep sticking
23 with December 21st, the shooting, okay?

24 When you talked to the police about it and you
25 told them that Solitario was there, did it appear to you

1 like they believed what you were saying?

2 MS. MARTINEZ: Objection, Your Honor,
3 relevance.

4 THE COURT: Sustained.

5 BY MR. CHICK:

6 Q. Do you know whether Solitario was ever charged
7 with being part of that crime?

8 MS. MARTINEZ: Objection, Your Honor, lack
9 of foundation, calls for hearsay.

10 THE COURT: Sustained.

11 BY MR. CHICK:

12 Q. On direct testimony, you testified that Douglas
13 had the gun and you said somebody else had a machete. I
14 think you said that it was -- I think you said that Evil
15 had a machete and somebody else had a bat; is that
16 right.

17 MS. MARTINEZ: Objection, Your Honor,
18 compound question.

19 THE COURT: Sustained.

20 BY MR. CHICK:

21 Q. You're not saying that Solitario attacked anybody
22 that night?

23 A. Yes.

24 Q. I'm correct -- let me ask it differently.
25 Did Solitario attack anybody that night?

1 A. No.

2 Q. Okay. Did he have a weapon?

3 MS. MARTINEZ: Objection, Your Honor,
4 leading.

5 MR. CHICK: It is leading.

6 THE COURT: Cross-examination, it's allowed.

7 MS. MARTINEZ: My apologies, Your Honor.

8 BY MR. CHICK:

9 Q. Did he have a weapon?

10 A. No.

11 Q. Did he touch or say anything to anybody?

12 A. Everybody was shouting. We were all shouting. I
13 cannot say whether he said anything or not.

14 Q. Okay. And, one of the people that you say was
15 there was Lil Evil, right?

16 A. Yes.

17 Q. After Lagrima was murdered, Lil Evil, he
18 disappeared, right?

19 A. Yes.

20 Q. Everybody was looking for him?

21 A. Yes.

22 Q. And, when I say "everybody was looking for him,"
23 I mean the clique was trying to find him, right?

24 A. Yes.

25 Q. And, you all wanted to find him because you

1 thought he might be working with the police, right?

2 A. Well, yeah, the clique, myself, everyone.

3 Q. Okay. And so, Lagrima was murdered back in
4 October of 2013, right?

5 A. I think that's the date.

6 Q. But, Lil Evil was with you in late December of
7 2013 when you did the shooting?

8 A. Yes.

9 Q. Okay. While I'm talking about Lagrima, let me
10 ask you this: Do you know whether Lil Slow knew about
11 the plan to murder Lagrima before it happened?

12 A. You are talking about Lil Slow or Lil Evil?

13 Q. Sorry. I'm shifting, I'm shifting around a
14 little bit. Do you know whether Lil Slow knew about the
15 plan to murder Lagrima?

16 A. Yes.

17 Q. You do know.

18 So, did he know about the plan?

19 A. Yes, he knew.

20 Q. Okay. And he was a *chequeo*, and he knew going
21 into it what was expected of him?

22 A. Yes.

23 Q. And then right after that, that's when you guys
24 jumped him in, right?

25 A. Yes.

1 Q. Okay. Because he did what was expected of him,
2 right?

3 A. Yes.

4 Q. So, you say that you did not -- I'm going to
5 shift around a little bit more. I'm going to talk about
6 Lil Guasón now. Okay?

7 You say that you did not know about the plan to
8 kill Lil Guasón?

9 A. I knew.

10 Q. You did know?

11 A. Yes.

12 Q. Okay. Did you tell the police when you met with
13 them that you did not know about it?

14 A. The first time, yes, I said that I did not know
15 it.

16 Q. Okay. And, at the beginning of that meeting --
17 that was in an October 29th meeting of 2014. In the
18 beginning of that meeting, the first thing you said was
19 you had previously lied to them, but you're there to be
20 honest with them now, right?

21 A. Yes.

22 Q. But, then you -- you weren't honest with them,
23 right?

24 A. Well, yes, I did. The first time, no. But after
25 that, I did tell the truth.

1 Q. So, did you or did you not want Lil Guasón to be
2 murdered?

3 A. Not really.

4 Q. Were you the first word of PVLS when he was
5 murdered?

6 A. No.

7 Q. So, you wouldn't have the power to order his
8 murder as part of the -- part of the gang then, right?

9 A. No.

10 Q. Let me -- let me shift gears a little bit again.
11 What year did you say you came to the United
12 States?

13 A. End of 2009.

14 Q. Okay. And you came here for your family, right?

15 A. Yes. I came to my father.

16 Q. And you came here to help your family, right?

17 A. Yes.

18 Q. You wanted to help your family back in El
19 Salvador, right?

20 A. Yes.

21 Q. You came here with good intentions?

22 A. Yes.

23 Q. Did you come here with intentions to join a gang?

24 A. No.

25 Q. Fair to say that you got lured in to this gang

1 stuff?

2 A. Yes.

3 Q. And so, why did you get involved with MS-13?

4 A. Because I liked what they were doing. I never
5 thought that we were going to kill anybody. I like that
6 they were going out, and they were using drugs, things
7 that I like to do.

8 Q. You liked what they were doing, you mean that
9 they were fun guys to hang out with?

10 A. Yes.

11 Q. Kind of a partying -- partying group of friends?

12 A. Yes.

13 Q. I guess it's fair to say that you regret joining
14 MS-13?

15 A. Yes.

16 Q. Can you tell -- tell the jury what it's like to
17 be locked up?

18 MS. MARTINEZ: Objection, Your Honor,
19 relevance.

20 MR. CHICK: Your Honor, it goes to his
21 desire to cooperate.

22 THE COURT: I think you've made that point.
23 Objection sustained.

24 BY MR. CHICK:

25 Q. Fair to say you would do anything for your kids,

1 right?

2 A. Yes.

3 Q. You'd do anything to get to hold them again?

4 MS. MARTINEZ: Objection, Your Honor.

5 THE INTERPRETER: Sorry. The interpreter
6 said "kid." You said "kids"? The interpreter
7 misinterpreted.

8 MR. CHICK: I did, but I think there's an
9 objection.

10 THE COURT: Overruled. Go ahead. Bias is
11 always relevant. Go ahead.

12 BY MR. CHICK:

13 Q. You'd do anything to hold your kids again?

14 A. Yes.

15 Q. To be able to kiss your daughter goodnight?

16 MS. MARTINEZ: Objection, Your Honor,
17 cumulative.

18 THE COURT: Sustained.

19 BY MR. CHICK:

20 Q. You -- over the past year or more, you've talked
21 to -- you know who Junior is, right?

22 A. I know who he is.

23 Q. Okay. You've talked to him before?

24 A. Yes.

25 Q. You talked to him over the phone before, right?

1 A. When I was outside, yes.

2 THE INTERPRETER: Sorry.

3 THE WITNESS: When I was outside.

4 BY MR. CHICK:

5 Q. And, you told him all kinds of things over the
6 phone, right?

7 A. No, not much.

8 Q. Okay. Do you know that he recorded your phone
9 calls?

10 A. I know.

11 Q. So, when he recorded your phone calls, did you --
12 were you telling him the truth all the time?

13 A. We always talk about drugs.

14 Q. Okay. So, my question is: When you talked to
15 him over the phone, when he recorded your phone calls,
16 did you tell him the truth all the time?

17 A. If it was about drugs, yes.

18 Q. Okay. Did you tell him the truth all the time
19 when you talked to him over the phone?

20 A. No.

21 Q. Okay. And, he's not the only person that
22 you've -- that you've lied to, right?

23 A. We, all of us homeboys, always lie.

24 Q. You lie to each other?

25 A. We lie to each other, yes.

1 Q. You lie to the police?

2 A. I have never done it. This is the first time
3 that I talk to the police, so...

4 Q. Okay. You got in trouble in -- in Fairfax, in
5 the jail, for fighting, right?

6 A. Once.

7 Q. And, you got written up for lying about that,
8 too, right?

9 A. I am not sure.

10 Q. So, if Duende said that you ordered Lil Guasón's
11 murder, would he be telling the truth?

12 A. No.

13 Q. On direct testimony, did you say -- I just want
14 to make sure that I understand this.

15 Did you say that Solitario told you that he went
16 there to rip Gerson's head off and to play soccer with
17 it?

18 A. Yes.

19 Q. Okay. Isn't it true, you heard from multiple
20 sources that Solitario did not know about the plan to
21 kill Gerson?

22 A. That's not true.

23 Q. That's not true. Okay.

24 A. Nobody has told me that he didn't know about it.

25 Q. Okay. Let me ask you this: You were told that

1 he appeared shocked and panicked when all this started
2 to happen.

3 A. When I spoke with him, when Gerson had got
4 killed, yes, I saw that he seemed to be in shock.

5 Q. Okay. Well, let me break that up. He seemed to
6 be shocked when he was telling you about it?

7 A. Yes.

8 Q. Okay. In fact, I think what you told the police
9 was that he seemed very traumatized when he was telling
10 you about it.

11 A. Yes.

12 Q. And then -- but you also heard from other people,
13 like you testified on direct, who told you that he
14 was -- that he froze up and that he was afraid and
15 panicked, right?

16 MS. MARTINEZ: Objection, Your Honor,
17 compound question.

18 THE COURT: Sustained.

19 BY MR. CHICK:

20 Q. You also heard from other people about what he
21 was like, right?

22 THE INTERPRETER: What was like?

23 MR. CHICK: What he was like.

24 THE WITNESS: Yes.

25 BY MR. CHICK:

1 Q. And they told you that he froze up?

2 A. Yes.

3 Q. And that he was afraid?

4 A. Yes.

5 Q. And that he was panicked?

6 A. Yes.

7 Q. And that he was ordered and threatened to use the
8 knife against Gerson, right?

9 A. Nobody told me that he was threatened.

10 Q. Okay. That he was ordered to use the knife
11 against Gerson?

12 A. Yes.

13 Q. Okay. You also talked a little bit about what
14 Solitario knew about Lagrima.

15 A. Yes.

16 Q. And I think that you said -- well, first of all,
17 you know that Solitario was not there when Lagrima was
18 murdered, right?

19 A. Yes.

20 Q. Because you were there, right?

21 A. Yes.

22 Q. Okay. And somebody -- so, what you know
23 basically is that somebody told Solitario about the
24 Lagrima murder?

25 A. Yes.

1 Q. And then Solitario told you that somebody told
2 him about it?

3 A. He told me that he had found out.

4 Q. And, he told you that he was also told, "This is
5 what happens when you violate the rules of MS-13"?

6 A. Yes.

7 Q. Just like if you were ordered to stab somebody
8 and you didn't follow the orders, that's what would
9 happen to you, right?

10 MS. MARTINEZ: Objection, Your Honor,
11 cumulative, argumentative.

12 MR. CHICK: It's not --

13 THE COURT: Rephrase.

14 BY MR. CHICK:

15 Q. If somebody were ordered to stab somebody and
16 they didn't do it, they, themselves --

17 THE COURT: Why use a hypothetical? Ask him
18 the question.

19 BY MR. CHICK:

20 Q. What would happen to somebody if they were
21 ordered to stab someone and they didn't do it?

22 MS. MARTINEZ: Objection, Your Honor, calls
23 for speculation, broad.

24 THE COURT: Hypothetical. Objection
25 sustained.

1 MR. CHICK: I don't have any further
2 questions.

3 THE COURT: Close enough.

4 Ladies and gentlemen, please do not discuss
5 the case. Don't permit the case to be discussed in your
6 presence. Leave your notes in the jury deliberation
7 room. And we'll resume at 2:00 o'clock. Thank you.

8 (Court recessed at 12:58 p.m. and reconvened
9 at 2:03 p.m.)

10 THE COURT: Bring our jury out.

11 You can bring the witness out.

12 (Witness resumed stand.)

13 (Jury present.)

14 THE COURT: You may be seated.

15 MR. AMOLSCH: Good afternoon, Your Honor.
16 May it please the Court.

17 THE COURT: You may proceed.

18 CROSS-EXAMINATION

19 BY MR. AMOLSCH:

20 Q. Good afternoon. Can you remind me, please, how
21 long you've been in MS-13?

22 A. From the time I have been in jail, counting that
23 time, like about three years counting that time.

24 Q. I'm sorry. My question was -- and I apologize
25 for the translation -- how long have you been in MS-13?

1 A. Three years.

2 Q. So, you didn't get in -- you didn't become part
3 of MS-13 until you went to jail here in the United
4 States?

5 A. No, I was part of the MS-13 outside, when I was
6 outside.

7 Q. And when did that start?

8 A. That was like around summer of 2013.

9 Q. And, did you become a member of MS-13 here in the
10 United States or in El Salvador?

11 A. Here in the United States.

12 Q. And, were you taught about the rules and
13 organization of MS-13?

14 A. Yes, some of the rules, most of them.

15 Q. Were you taught about the difference between
16 punishments?

17 A. Yes.

18 Q. You were taught about the difference between
19 green lights and *calentóns*?

20 A. Yes.

21 Q. Green lights are the most severe kind of
22 punishment?

23 A. Yes.

24 Q. *Calentóns* are for less severe violations of
25 rules?

1 A. Yes.

2 Q. In order to punish someone as part of the MS-13
3 code, do you need to ask permission for that from
4 anybody?

5 A. Yes.

6 Q. So, for instance, before MS-13 will authorize a
7 green light on somebody, you have to get permission,
8 correct?

9 A. Yes.

10 Q. You can get a green light, with permission, for
11 snitching?

12 A. Yes.

13 Q. For cooperating with police?

14 A. Yes.

15 Q. For leaving the gang without permission?

16 A. Yes.

17 Q. You were asked some questions regarding a woman
18 named Belén.

19 A. Yes.

20 Q. Did I pronounce that correctly?

21 A. Yes.

22 Q. And, you were not married to her; is that
23 correct?

24 A. Yes.

25 Q. Now, I understood your testimony from the

1 government that Mr. Aguilar lived with you at some
2 point, correct?

3 A. He lived with my daughter's mom.

4 Q. Did he ever live with you?

5 A. No. He just -- well, sometimes he slept at my
6 house.

7 Q. You described an event where you came home one
8 day and found Belén locked in your bathroom. Do you
9 remember talking about that with the government?

10 A. Yes.

11 Q. Mr. Aguilar was not living with you at that time?

12 A. No.

13 Q. And I believe you testified that you came home,
14 you tried to get into the bathroom, but the door was
15 locked; is that correct?

16 A. Yes.

17 Q. And that you were able to see, through a window,
18 Mr. Aguilar running away; is that correct?

19 A. Yes.

20 Q. So, did you take from that situation that
21 Mr. Aguilar was in the bathroom with Belén when you were
22 trying to get in?

23 A. Yes.

24 Q. Did you have to break down the door in order to
25 get in?

1 A. No.

2 Q. How did you get in the door?

3 A. I just waited for Belén to come out.

4 Q. Were you angry when she came out?

5 A. Yes.

6 Q. You were angry at her and at Mr. Aguilar,
7 correct?

8 A. Yes.

9 Q. I believe you testified that you were so angry
10 that you wanted to kill him right there.

11 A. Yes.

12 Q. Is that something that you took personally, sir?

13 A. I forgot that. I forgot that later, but I did
14 speak with Lil Poison, so I forgot it. I left it.

15 Q. Let me ask you --

16 A. I left it right there.

17 Q. So, when you saw Mr. Aguilar running away from
18 your house after having been locked in the bathroom with
19 your daughter's mother, you took that very personally;
20 didn't you?

21 A. No.

22 Q. It didn't bother you at all?

23 A. Yes, it did bother me, but I did not take it
24 personally. It was like, he was disrespecting a man
25 from La Mara, or, you know -- the woman of a man from

1 La Mara.

2 Q. I believe you testified that you were so angry
3 that you wanted to kill him right there.

4 A. I said that I wanted to put on him -- I mean to
5 ask for a green light on him.

6 Q. And, you ultimately did ask somebody to punish
7 Gerson, correct?

8 A. Yes, for them to punish him, but not for them to
9 kill him.

10 Q. We're talking about the time where Gerson ran
11 outside of your bathroom. You asked them to punish him
12 for that, correct?

13 A. Yes.

14 Q. And they said no, correct?

15 A. They said no because it was going to be a problem
16 for the entire clique, not just for me or for him, it
17 was going to be a problem for the entire clique if they
18 became aware of what he was doing.

19 Q. So, the -- so, they -- you went to them and asked
20 for Gerson to be punished, and the gang said no?

21 MS. MARTINEZ: Objection, Your Honor,
22 compound question.

23 THE COURT: Sustained.

24 BY MR. AMOLSCH:

25 Q. You went to -- I'll break it up for you. I

1 apologize.

2 You went to the gang and asked them to punish
3 Gerson, correct?

4 A. Yes.

5 Q. And, they said no, because this is not a gang
6 problem, correct?

7 A. No, they didn't say that. They said that -- no
8 they didn't say that. They said that it was not good
9 for me to be talking about that because it was going to
10 be affecting the clique.

11 Q. I'm not sure I understand your answer, so I'm
12 going to ask you to repeat it. They said what? I
13 apologize.

14 A. No, specifically, no, because specifically in the
15 clique, they had forbidden to smoke crystal meth, and
16 they had said that anybody who did would automatically
17 be given a green light. So that was a reason I wasn't
18 going to be able to speak about that.

19 Q. So, your testimony now is that anybody who smokes
20 crystal meth, they get a green light?

21 A. Within our clique, that was what we talk about --
22 we talked about.

23 Q. Is that one of the rules of MS-13?

24 A. It was a rule that we had as a clique, when we
25 started selling crystal meth.

1 Q. So, if a green light is a punishment for someone
2 who smokes crystal meth, and Gerson smoked crystal meth,
3 why was he not given a green light?

4 A. Because several of us were doing it, several of
5 us were consuming crystal meth. But the homeboys who
6 were supposed to know, they did not know that they were
7 consuming crystal meth.

8 Q. Who were the homeboys that were consuming crystal
9 meth?

10 A. I did it. Lil Poison did it, and Silencio did
11 it, Lil Slow. As far as I know, only us.

12 Q. When you went to jail in January -- in Fairfax
13 County; is that correct?

14 A. Yes.

15 Q. January of 2014 or '13?

16 A. '14.

17 Q. And before you went, you gave Belén money to take
18 care of your daughter while you were gone, correct?

19 A. I didn't give her money. It's just that she
20 found some drug that I had, and she started selling it.

21 Q. Well, you testified earlier on questions from
22 Mr. Leiva that you had given Belén money for rent while
23 you were gone in prison. Do you remember that?

24 A. Yes, of course. It was the same drug -- the same
25 money we were making from the drug we were selling. It

1 was the same thing.

2 Q. Well, Mr. Leiva asked you about rent money, about
3 \$600. Do you remember that?

4 A. Yes, yes.

5 Q. And, you testified that that money was your money
6 that you gave to Belén to pay for rent while you were
7 gone.

8 A. Yes.

9 Q. So that was your money you gave to Belén to pay
10 rent while you were gone?

11 A. Yes, yes. That money was left with her.

12 Q. Now, did there come a time when you learned that
13 Gerson had taken your money from Belén?

14 A. Yes.

15 Q. Did that make you angry?

16 A. Yes, angry, and I got worried.

17 Q. So, did you try to get that money back while you
18 were in jail?

19 A. Yes. I spoke with them several times, and I
20 would ask him about the money.

21 Q. Now, Gerson was living with your -- with Belén at
22 this point, correct?

23 A. Yes.

24 Q. And he was there to look out for Belén and your
25 daughter while you were gone, correct?

1 A. Yes.

2 Q. So, when you called from the jail to try to get
3 that money back, you were not asking for Mr. Aguilar to
4 be killed, were you?

5 A. No.

6 Q. In fact, what you really wanted was you wanted
7 the money back so that she could pay her rent, correct?

8 A. Yes.

9 Q. And I think you told the government, when you
10 spoke with them, that you never wanted him to be killed,
11 correct?

12 A. Yes.

13 Q. In fact, you haven't been charged with his
14 murder, have you?

15 A. No.

16 Q. Have you been charged with planning his murder?

17 A. No.

18 Q. You were locked up at the time Mr. Aguilar was
19 murdered, so you could not have participated, correct?

20 A. Yes.

21 Q. And when the government asked you, did you ask
22 anybody to kill him while -- Mr. Gerson, Mr. Aguilar --
23 while you were in jail, the answer to that question is
24 no, correct?

25 A. Yes.

1 Q. And, we talked about there's a process by which
2 people get green lighted as part of MS-13 business,
3 correct?

4 A. Yes.

5 Q. Did you ask Lil Payaso to green light Gerson?

6 A. No.

7 Q. Lil Payaso was the first word?

8 A. No.

9 Q. Who was the first word?

10 A. El Payaso.

11 Q. And where is El Payaso?

12 A. In prison.

13 Q. El Payaso had a cellphone in prison, correct?

14 A. Yes.

15 Q. Did you call or have anybody else call El Payaso
16 to get a green light on Gerson?

17 A. No.

18 Q. Who is the second word?

19 A. When -- when I was locked up, the one that was
20 left in charge was Lil Payaso, who was outside.

21 Q. Did you ask Lil Payaso for permission for a green
22 light to kill Gerson?

23 A. No.

24 Q. In fact, I believe you told the government that
25 you didn't even know Gerson had been killed until

1 somebody else told you about it. Is that correct?

2 A. Yes.

3 Q. And, if you were going to ask anybody to have a
4 green light for gang business, the people you would talk
5 to are El Payaso and Lil Payaso, correct?

6 A. Yes.

7 MR. AMOLSCH: Court's indulgence.

8 That's all I have, Your Honor. Thank you.

9 CROSS-EXAMINATION

10 BY MR. ZIMMERMAN:

11 Q. Good afternoon, sir.

12 A. Good afternoon.

13 Q. My name is Jeff Zimmerman. I represent Alvin
14 Gaitan Benitez, who you have referred to as Pesadilla.

15 You testified on direct that you participated in
16 Lagrima's murder; is that correct?

17 A. Yes.

18 Q. Okay. And, it's also correct that Alvin was not
19 present and did not participate in Lagrima's murder; is
20 that correct?

21 A. Yes.

22 Q. Okay. And, you testified that you were in jail
23 when Lil Guasón was murdered, correct?

24 A. Yes.

25 Q. Okay. So, you have no firsthand knowledge of

1 what happened when Lil Guasón was murdered on that day?

2 A. Yes.

3 Q. Okay. One of the people you talked to, you
4 testified, when you were in jail about the Lil Guasón
5 murder was Solitario; is that correct?

6 A. Yes.

7 Q. Solitario told you that he was one of the ones
8 who stabbed Lil Guasón; is that correct?

9 A. Yes.

10 Q. And, he also told you -- Solitario also told you
11 that he helped cut off Lil Guasón's head; is that
12 correct?

13 A. Yes.

14 Q. Okay. Um, Solitario also told you, um, with
15 regard to the Guasón murder, that he liked what they had
16 done; is that correct?

17 A. Yes.

18 MR. ZIMMERMAN: I have no further questions.
19 Thank you.

20 CROSS-EXAMINATION

21 BY MS. MARTELL:

22 Q. Finally here. Good afternoon.

23 A. Good afternoon.

24 Q. Mr. Marquez, my name is Katherine Martell. I
25 represent Omar Dejesus Castillo. You've referred to him

1 today as Lil Payaso.

2 You know who Omar is, correct?

3 A. Yes.

4 Q. You testified that you joined MS-13 at the end of
5 2012, correct?

6 A. Yes.

7 Q. And when you joined MS-13 at the end of 2012, you
8 didn't know my client. You hadn't met him in person,
9 correct?

10 A. No.

11 Q. And, after you became a homeboy in MS-13, you
12 still had not met my client in person, correct?

13 A. Yes.

14 Q. You testified that once you became involved with
15 this clique, you became known as the drug man for the
16 clique, correct?

17 A. Yes.

18 Q. And you also testified that one of the rules of
19 MS-13 is that as a homeboy, you're not supposed to use
20 your own product that you're selling, correct?

21 A. Yes.

22 Q. But you were using, correct?

23 A. Yes.

24 Q. You were using drugs every day?

25 A. Yes.

1 Q. In fact, on the day of the Lagrima murder, you
2 were high on crystal meth, correct?

3 A. Yes.

4 Q. Even though that was against the rules; you
5 weren't supposed to be smoking crystal meth, correct?

6 A. Yes.

7 Q. And the reason for that is because crystal meth
8 makes you hallucinate, correct?

9 A. I was not hallucinating. I was just high.

10 Q. But the reason that MS-13 doesn't want homeboys
11 high on crystal meth is because they could hallucinate,
12 correct?

13 A. Can't answer that question, because that was the
14 first time I was doing that.

15 Q. Last week you testified that you had already done
16 crystal meth on two prior occasions, correct?

17 A. Yes.

18 Q. So, that wasn't your first time, right?

19 A. I was doing it the first time that I was going to
20 do something to kill a person, and I did it with
21 marijuana.

22 Q. But, you had already smoked crystal meth in the
23 past?

24 A. Yes.

25 Q. I want to talk about the Lagrima murder and some

1 of the information that you've testified to last week.

2 You said that there was a phone call between
3 members of the clique and leadership in order to get
4 approval for the Lagrima murder, correct?

5 A. Yes.

6 Q. My client was not present during that phone call,
7 correct?

8 A. Yes.

9 Q. Yes, he was present, or yes, he was not present?

10 A. When -- when the homeboys from El Salvador were
11 called, no.

12 Q. And, let's talk about what you said that my
13 client's role was during the murder. You said that
14 during the murder, my client held Lagrima by the feet,
15 correct?

16 A. Yes.

17 Q. You held Lagrima down by the arms, correct?

18 A. Yes.

19 Q. And, it's your testimony that you were the only
20 person, out of everybody that was there, that did not
21 stab Lagrima, correct?

22 A. Yes.

23 Q. Isn't it true that during the meetings that you
24 had with the assistant United States attorney and the
25 FBI, that you previously did not state that my client

1 had stabbed Lagrima?

2 A. No, I didn't say that.

3 Q. Do you recall having a meeting on March 1st,
4 2016?

5 A. I think so.

6 Q. And, you remember tes- -- telling the agents and
7 the assistant U.S. attorney about who was at the murder
8 of Lagrima, correct?

9 A. Yes.

10 Q. And, at that time, you gave individual names of
11 different people that were there, correct?

12 A. Yes.

13 Q. And, you stated what their role had been during
14 the murder, correct?

15 A. Yes.

16 Q. And, isn't it true that at that meeting, the only
17 thing that you stated was that Omar, Lil Payaso, had
18 held Lagrima about his feet and participated in the
19 *calentón*?

20 A. No.

21 Q. Do you recall where you said that Omar stabbed
22 him?

23 A. No.

24 Q. According to your testimony, about two weeks
25 after you were arrested you decided that you were going

1 to cooperate with the government, correct?

2 A. Yes.

3 Q. And that was before you were charged in this
4 case?

5 A. Yes.

6 Q. And, you recall that you met with detectives
7 around August 29, 2014, correct?

8 A. Yes.

9 Q. And, at that time, you told the detectives that
10 you hadn't been truthful in the past, but you were going
11 to tell the truth, correct?

12 A. Yes.

13 Q. And, during that meeting, you talked about the
14 Lagrima and the Gerson murders, correct?

15 A. Yes.

16 Q. And, you said that it was Douglas Cerritos, Lil
17 Poison, that had killed Lagrima, correct?

18 A. The one who attacked him first. That's what I
19 said.

20 Q. And, isn't it true that you said that it was
21 Douglas Cerritos, Lil Poison, that was looking for him,
22 because he had snitched, correct?

23 A. No.

24 Q. You told them during that meeting that you didn't
25 even know what Lagrima looked like, right?

1 A. Yes.

2 Q. You denied knowing him?

3 A. Yes, I knew him.

4 Q. But, you denied to the police that you knew him,
5 correct?

6 A. Initially, yes.

7 Q. And you also denied participating in the murder
8 at all, correct?

9 A. Yes.

10 Q. You didn't name my client, Omar Castillo, as
11 being part of the murder when you spoke to the
12 detectives in August of 2014, correct?

13 A. No. We barely spoke about the murder.

14 Q. It wasn't until after you were indicted and
15 charged with the murder of Lagrima that your story began
16 to change, correct?

17 A. Yes.

18 Q. You had two attorneys once you were charged with
19 the murder, correct?

20 A. Yes.

21 Q. And, they went over the indictment with you,
22 correct?

23 A. Yes.

24 Q. And, in that indictment, it named the individuals
25 that were charged with the Lagrima murder, correct?

1 A. Yes.

2 Q. It had their names and also their gang monikers,
3 correct?

4 A. Yes.

5 Q. And so, you knew based on that indictment who the
6 government thought had participated in those murders,
7 correct?

8 A. Yes.

9 Q. Let's talk about Gerson Martinez. According to
10 you, by the time you were arrested, you and Gerson had
11 patched things up, correct?

12 A. Yes.

13 Q. You were no longer upset with him because he was
14 smoking crystal meth with your baby's mama, right?

15 A. Yes.

16 Q. And, in fact, before you went to prison, you
17 asked Gerson if he could watch over Belén and your
18 daughter, correct?

19 A. Yes.

20 Q. And that meant a lot to you, because your
21 daughter is very important to you, right?

22 A. Yes.

23 Q. And you wanted to make sure that she was being
24 taken care of?

25 A. Yes.

1 Q. You would speak to Belén when you were
2 incarcerated at Fairfax County, correct?

3 A. Yes.

4 Q. You would speak to her often to find out about
5 your daughter?

6 A. Yes.

7 Q. Belén started telling you that she was having
8 problems with Gerson, correct?

9 A. Yes.

10 Q. That Gerson was not working?

11 A. Yes.

12 Q. That he was doing drugs?

13 A. Yes.

14 Q. That he was doing drugs in the same room that
15 your daughter was staying, correct?

16 A. I don't remember that.

17 Q. And, Belén also told you that he was drunk all
18 the time?

19 A. I don't recall that.

20 Q. She told you that he stole money that belonged to
21 her, right?

22 A. Yes.

23 Q. Money that she was going to use to pay the rent?

24 A. Yes.

25 Q. And, that made you upset, correct?

1 A. Yes.

2 Q. So upset that you wanted to three-way with Gerson
3 right away on the telephone, correct?

4 A. Yes.

5 Q. And, when you did get a chance to speak to
6 Gerson, you told him that he better have Belén's money
7 in two days or else, correct?

8 A. Yes.

9 Q. You previously had asked the clique to green
10 light Gerson, correct?

11 A. Yes.

12 Q. But they talked about it, correct?

13 A. Yes.

14 Q. And, the clique told you that that wasn't in the
15 best interest of the clique, correct?

16 A. Yes.

17 Q. And, after you talked to Lil Poison, you decided
18 that the best thing for the clique was to patch things
19 up?

20 A. Yes.

21 Q. At the time when you were incarcerated, you were
22 no longer seeing Belén romantically, correct?

23 A. Yes.

24 Q. You already -- you had someone else by the name
25 of Rosie, correct?

1 A. Yes.

2 Q. And, you were planning on making a life with
3 Rosie once you got out of prison, correct?

4 A. Yes.

5 Q. Have children with her?

6 A. Yes.

7 Q. And possibly also have your daughter with you,
8 correct?

9 A. Yes.

10 Q. I want to ask you about -- in the -- you also
11 testified that not only did you participate in the
12 Lagrima murder, but you were involved in the shooting on
13 December 21st, correct?

14 A. Yes.

15 Q. And, you said almost all of the clique was there,
16 correct?

17 A. Yes.

18 Q. My client, Omar Castillo, was not there, correct?

19 A. No.

20 Q. And, you also participated in some other crimes,
21 correct?

22 A. Yes.

23 Q. One was an assault on someone in Fairfax County?

24 A. Yes.

25 Q. The other one, you were also involved in selling

1 drugs?

2 A. Yes.

3 Q. Transporting drugs?

4 A. Yes.

5 Q. And, it's your understanding that you're not
6 going to be charged for any of these crimes, correct?

7 A. Yes.

8 Q. And, you weren't charged in the Gerson murder,
9 correct?

10 A. No.

11 Q. You weren't charged with the reburial of Lagrima
12 either, correct?

13 A. No.

14 Q. And, about the reburial of Lagrima, my client,
15 Omar Castillo was not there, right?

16 A. Yes.

17 Q. Even though you testified that everyone that was
18 at the Lagrima' murder was at the reburial, correct?

19 A. No.

20 Q. Who else was at the murder of Lagrima that was
21 not at the reburial?

22 MS. MARTINEZ: Your Honor, may we approach
23 briefly on that question?

24 THE COURT: Yes.

25 (Thereupon, the following side-bar

1 conference was had:)

2 MS. MARTINEZ: Your Honor, that question
3 starts getting into dangerous territory with the
4 pseudonym issue, with the homeboy issue. The issue is
5 that Leopardo was involved in the reburial.

6 Now, as we know, that as the jury doesn't
7 know, and we don't want the jury to know, Leopardo was
8 involved in the murder. So the broad question, "Who was
9 at the reburial," "Who wasn't at the murder," assuming
10 that this witness thinks that he won't say Leopardo,
11 but, as far as the jury knows, Leopardo was a truthful
12 answer to that. So, we're getting into real sticky
13 territory.

14 And, I'm also concerned about -- I'm trying
15 to remember how should I say that, because homeboy two,
16 they're not supposed to know it's Leopardo. But
17 Leopardo, so he was at the reburial, but I didn't say
18 that he was at the murder. I think we're going to have
19 issues with this witness.

20 We have made it almost through the witnesses
21 without any flubs on the homeboy two issue. So I think
22 we have two issues.

23 One is we are risking a mistake on that.
24 But more importantly, if this witness follows Your
25 Honor's and my instructions about not telling the jury

1 that homeboy two and Leopardo are the same person, he's
2 going to be giving what will sound like an untruthful
3 answer here, or inconsistent with his previous
4 testimony, because he has testified that Leopardo was at
5 the reburial. He has also provided a list of people who
6 were at the murder.

7 So, if right now and in response to
8 Ms. Martell's question, he doesn't name Leopardo, that
9 will be inconsistent from the jury's ears, what he said
10 earlier, even though it will actually be truthful.

11 MS. MARTELL: Your Honor, it's not -- not my
12 intention to get out anything that has to do with
13 homeboy two being Leopardo.

14 And I'll rephrase the question to say, to
15 use the pseudonym, or however Your Honor would like.
16 But I took down the people that he said were present
17 during the murder, and he mentioned homeboy two,
18 himself, Lil Poison, Greñas, my client, Lil Evil, Duende
19 and Lil Slow.

20 And then I took down everyone that he
21 mentioned was at the reburial, and it's every single one
22 of those except for my client. That's very important
23 testimony that we need to get out there.

24 THE COURT: If you can do it without
25 creating this question about Leopardo and homeboy two,

1 I'll let you ask it.

2 Right now, what is it you want to ask,
3 without having to ask it that way?

4 What -- the question called for the answer,
5 identify the person who has not been identified as a
6 part of the burial.

7 MS. MARTELL: I didn't think he was going to
8 deny it. But I'll go through and use homeboy two as the
9 pseudonym and say, these were all the people you said
10 were at the murder, and you say they're at the reburial.

11 THE COURT: No, it's -- if you want to ask
12 who was at the reburial, just ask that. But if you ask
13 him to compare who is at the reburial and who was at the
14 murder, that's where we have the problem.

15 You don't have to agree with it. I'm making
16 a ruling. I want to make sure you understand. If you
17 want to ask who was at the reburial, ask.

18 MS. MARTELL: It's important for our case
19 that our client is the only individual who's -- who's
20 claimed to be at the Lagrima murder that's not at the
21 reburial.

22 THE COURT: I don't think you heard what I
23 just said.

24 MS. MARTELL: I heard what you just said.

25 THE COURT: I'm allowing you to make your

1 point. You can argue your point without making this
2 witness have to compare who was at the murder with who
3 was at the burial scene.

4 That's the point you want to make. I'm
5 letting you do it, but I'm not letting you do it the way
6 you want, because it's going to create a problem for me,
7 and I have another individual's rights to be protected
8 in this trial, as well. So, you understand?

9 MS. MARTELL: I understand.

10 THE COURT: What are you going to do?

11 MS. MARTELL: I'm going to go through the
12 people he said were at the reburial, confirm that with
13 him.

14 THE COURT: Thank you very much.

15 I think we have a juror that's out, right?

16 (Thereupon, the side-bar conference was
17 concluded.)

18 BY MS. MARTELL:

19 Q. Mr. Marquez Ayala, my client, Omar Castillo, was
20 not at the reburial of Lagrima, correct?

21 A. Yes.

22 Q. You testified earlier today that all of -- all
23 homeboys lie, correct?

24 A. We lie among ourselves.

25 Q. And that's true because part of being an MS-13 is

1 that you learn how to lie to survive, correct?

2 A. Yes.

3 MS. MARTELL: Thank you. No further
4 questions.

5 THE COURT: Redirect.

6 MS. MARTINEZ: Thank you, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. MARTINEZ:

9 Q. Little Payaso's attorney asked about who was
10 there during the phone call with El Salvador about
11 Lagrima's murder. Do you remember that?

12 A. Yes.

13 Q. Were you involved in more than one conversation
14 regarding the murder of Lagrima before the murder?

15 A. Yes.

16 Q. During any of the conversations in which you were
17 involved or present about the murder of Lagrima, before
18 the murder, was Lil Payaso there?

19 A. Yes.

20 Q. You were also asked a lot of questions about your
21 role in the murder of Lagrima.

22 A. Yes.

23 Q. You said that you held him down while others were
24 stabbing him; is that right?

25 A. Yes.

1 Q. Was there a time when you let go?

2 A. Yes.

3 Q. What happened when you let go?

4 A. He tried to get up.

5 Q. What happened then?

6 A. I -- I -- I grabbed him back again.

7 Q. What did the others do?

8 A. They continued hitting him. Lil Poison had a
9 knife and he had -- he cut his hand when he tried to get
10 up.

11 Q. And again, when you say "hitting," in that
12 context, do you mean with hands and fists or do you mean
13 with weapons?

14 A. Weapons.

15 Q. And, you were also asked questions about
16 something you may have said about killing the mother of
17 your child.

18 A. Yes.

19 Q. What, if anything, did you say to the mother of
20 your child about that?

21 A. After we had talked, she was going to be killed,
22 I spoke with her.

23 Q. Why?

24 A. I didn't want her to be killed.

25 Q. What did you tell her?

1 A. To talk with the police and seek protection.

2 Q. You were also asked questions about you wanting
3 protection for your girlfriend, your daughter, and the
4 mother of your daughter. Do you remember that?

5 A. Yes.

6 Q. Why are you worried about protection for your
7 girlfriend, your daughter, and the mother of your
8 daughter?

9 A. Because they might be hurt.

10 Q. Why?

11 A. Because I'm a government witness in the case.

12 MS. MARTINEZ: No further questions, Your
13 Honor.

14 THE COURT: May the witness be excused?

15 MS. MARTINEZ: Yes, Your Honor.

16 THE COURT: All right.

17 (Thereupon, the witness withdrew from the
18 stand.)

19 MR. TOBLER: The government calls
20 Officer Evan Dicker.

21 (Witness sworn.)

22 THE WITNESS: I do.

23 THEREUPON, EVAN DICKER, having been duly
24 sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. TOBLER:

2 Q. Good afternoon, sir.

3 A. Good afternoon.

4 Q. Would you please state your name and spell it for
5 the record.

6 A. Yes, it's Officer Evan, E-v-a-n, Dicker,
7 D-i-c-k-e-r.

8 Q. Where do you work, sir?

9 A. Fairfax County Police Department.

10 Q. How long have you worked with the Fairfax County
11 Police Department?

12 A. Just over five years.

13 Q. Where did you work prior to that?

14 A. Manassas City Police Department.

15 Q. How long did you work at the Manassas City Police
16 Department?

17 A. Just over three years.

18 Q. What is your current position at the Fairfax
19 County Police Department?

20 A. I'm a patrol officer for the Mason District,
21 particularly Mitsby.

22 Q. Let me direct your attention to December 21,
23 2013. Were you working that night?

24 A. I was.

25 Q. What were your duties that night?

1 A. Patrol officer, basically first responder, handle
2 calls for service in my area.

3 Q. Did you receive any calls for service that night?

4 A. I did.

5 Q. What calls did you receive?

6 A. Particularly a weapons complaint.

7 Q. What was the location of the -- of the incident?

8 A. In the Culmore area, particularly 6016 Bellevue
9 Drive, Apartment Number 1.

10 Q. What was the time of day at which you received
11 that call?

12 A. It was nighttime.

13 Q. Do you know approximately what time?

14 A. I do not recall.

15 Q. How far were you from the scene?

16 A. Since it is my area, any calls for service that
17 come in my area, I'm on -- automatically responding to.
18 So I was already in the area. I was approximately about
19 a minute or so from time of dispatch.

20 Q. Please describe the neighborhood.

21 A. The Culmore area is particularly made out of
22 apartment buildings, particularly Bellevue Drive,
23 they're just rows of apartment buildings.

24 Q. Were you the first officer to arrive to the scene
25 of the weapons complaint?

1 A. I was.

2 Q. What did you do first --

3 A. I -- I --

4 Q. -- upon arriving at the scene?

5 A. Arrived on scene and spoke with two individuals
6 who were right outside the apartment building.

7 Q. What did you observe about the emotional state of
8 those individuals?

9 A. They appeared shaken up. I noticed one
10 individual, his eye was bright red and he was itching
11 it. Appeared that he had glass in his eye, kept itching
12 it.

13 Q. Do you know whether that individual received
14 medical attention?

15 A. Yes. I had rescue respond to the location.

16 Q. After speaking to those individuals, did you
17 conduct a search of the crime scene?

18 A. I did. I went into the apartment, noticed the
19 living room window was -- appeared to have a bullet hole
20 through it. Continued -- it was actually in the living
21 room. Looked up at the ceiling, noticed like an
22 indentation in the dry wall in the ceiling. And then,
23 looked in the living room itself on the hardwood floor,
24 and observed a bullet fragment.

25 Q. Did you recover the bullet fragment?

1 A. I did.

2 Q. What other evidence did you recover from the
3 scene?

4 A. I did go outside in front of the window in the
5 apartment building. I found a -- discovered a bullet
6 casing, shell casing in the grass near the window of the
7 apartment building.

8 Q. Were you able to determine the caliber of the
9 bullet associated with the shell casing?

10 A. It was a 32.

11 MR. TOBLER: No further questions, Your
12 Honor.

13 MR. JENKINS: No questions.

14 THE COURT: May the witness be excused?

15 MR. TOBLER: Yes, Your Honor.

16 THE COURT: You're free to leave, sir.

17 Thank you.

18 THE WITNESS: Thank you.

19 (Witness excused.)

20 MS. MARTINEZ: Your Honor, before the next
21 witness, may we either approach or address the Court
22 outside the presence of the jury?

23 THE COURT: You can come up to sidebar.

24 (Thereupon, the following side-bar
25 conference was had:)

1 MS. MARTINEZ: Your Honor, the next witness
2 is one of the cooperators who will need to use the
3 pseudonym, and so we need Your Honor to instruct him
4 outside of the presence of the jury. We did -- we have
5 spoken to him. We've gone over the pseudonym.

6 THE COURT: This is homeboy two?

7 MS. MARTINEZ: Yes, Your Honor.

8 THE COURT: All right.

9 And he knows who that is without saying who
10 that is?

11 MS. MARTINEZ: Correct, Your Honor. We
12 aren't asking Your Honor to give specific instructions,
13 but to simply affirm what we told him, that this is in
14 accordance with Your Honor's order and it's okay to use
15 the pseudonym -- which is a big word that he may not
16 understand -- but the different name in the way that he
17 was instructed to.

18 THE COURT: All right. I'll send the jury
19 out, and bring the witness.

20 MS. MARTINEZ: That sounds good.

21 Just so Your Honor knows, it may take a
22 minute for the witness to come up. The other marshals
23 are bringing him up right now. He's present, but --

24 THE COURT: All right.

25 MS. MARTINEZ: I was whispered it was going

1 to take a minute.

2 THE COURT: All right. Thank you.

3 (In open court:)

4 THE COURT: Ladies and gentlemen, I need to
5 take up a matter with counsel, probably about 10 or
6 15 minutes. I'm trying to stay on the schedule for good
7 reason. I'm going to take about ten minutes. Thank
8 you.

9 (Jury not present.)

10 (Thereupon, the side-bar conference was
11 concluded.)

12 THE COURT: You can be seated.

13 Why don't we take the 15-minute recess now?
14 We'll do that. And by the time he gets here, we'll be
15 ready. Thank you.

16 (Court recessed at 3:08 p.m. and reconvened
17 at 3:29 p.m.)

18 (Jury not present.)

19 THE COURT: You want to bring the witness
20 out. ^ NOTE: Witness spells his name Araeli

21 MS. MARTINEZ: For the record, Your Honor,
22 the government calls Araeli Santiago Villanueva.

23 THE COURT: All right.

24 Good afternoon. Mr. Villanueva, can you
25 hear me okay?

1 THE WITNESS: Yes.

2 THE COURT: I know that the -- go ahead.
3 You need the microphone?

4 THE INTERPRETER: Yes, thank you, Your
5 Honor.

6 THE COURT: Can you administer the oath,
7 Terese.

8 (Witness sworn.)

9 THE WITNESS: Yes.

10 THE COURT: You can be seated.

11 Mr. Villanueva, can you hear me okay?

12 THE WITNESS: Yes.

13 THE COURT: I understand that the government
14 attorney has asked you to address one individual as
15 homeboy two. Do you understand?

16 THE WITNESS: Yes.

17 THE COURT: That was at my instruction. So,
18 you're following the Court's instruction as long as you
19 do that, okay?

20 THE WITNESS: Yes.

21 THE COURT: If you have any questions about
22 it before you answer, ask the U.S. attorney to explain.

23 THE WITNESS: Okay.

24 THE COURT: All right. Thank you.

25 You can bring our jury out. Thank you.

1 (Jury present.)

2 THE COURT: You may be seated.

3 Ladies and gentlemen, the witness was
4 previously sworn outside your presence.

5 You may proceed, Counsel.

6 MS. MARTINEZ: Thank you, Your Honor.

7 THEREUPON, ARAELI SANTIAGO VILLANUEVA,
8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. MARTINEZ:

11 Q. Good afternoon. Would you please state your full
12 name and spell it for the record.

13 A. Araeli Santiago Villanueva.

14 Q. Would you spell your name, please.

15 A. A-r-a-e-l-i, S-a-n-t-i-a-g-o,
16 V-i-l-l-a-n-u-e-v-a.

17 Q. How old are you?

18 A. Twenty.

19 Q. Where were you born?

20 A. Guatemala.

21 Q. When did you come to the United States?

22 A. 2012.

23 Q. How old were you when you came to the United
24 States?

25 A. Sixteen.

1 Q. How did you get to the United States?

2 A. Illegal.

3 Q. Where did you go in the United States when you
4 arrived?

5 A. To Virginia.

6 Q. Before you left Guatemala, how far did you go in
7 school?

8 A. Third of elementary.

9 Q. When you came to Virginia, did you continue with
10 school?

11 A. Yes.

12 Q. When you said that in Guatemala you went to third
13 of elementary, what is that the equivalent of that here
14 in the United States, approximately?

15 A. Eleventh grade.

16 Q. When you continued your school here in the United
17 States, where did you go to school?

18 A. J.E.B. Stuart.

19 Q. How long did you attend J.E.B. Stuart High
20 School?

21 A. A year and a half.

22 Q. Did you graduate?

23 A. No.

24 Q. What grade were in when you finished -- when you
25 stopped attending high school?

1 A. Tenth.

2 Q. Are you a member of any gang?

3 A. Yes.

4 Q. What gang are you a member of?

5 A. MS-13.

6 Q. What is the full name of MS-13?

7 A. Mara Salvatrucha 13.

8 Q. When did you join MS-13?

9 A. 2013.

10 Q. How old were you?

11 A. Seventeen.

12 Q. Within MS-13, was there a particular clique that
13 you joined?

14 A. PVLS.

15 Q. What is the full name of the PVLS clique?

16 A. Parque Vista Locos Salvatrucha.

17 Q. Once you joined MS-13, were you given a gang
18 name?

19 A. Yes.

20 Q. What name is that?

21 A. Spider.

22 Q. Are you known by any other gang names?

23 A. Yes.

24 Q. What names?

25 A. Slow.

1 Q. Are you currently incarcerated?

2 A. Yes.

3 Q. For what?

4 A. Murder.

5 Q. How many murders did you commit?

6 A. Two.

7 Q. Have you pled guilty to a crime?

8 A. Yes.

9 Q. What crime did you plead guilty to?

10 A. Murder.

11 Q. These murders you committed, were they committed
12 with other gang members?

13 A. Yes.

14 Q. Who were the victims?

15 A. What did you say? Could you repeat?

16 Q. Who were the victims of the murders?

17 A. Gerson and Lagrima.

18 Q. Which murder was first?

19 A. Lagrima.

20 Q. How old were you for the murder of Lagrima?

21 A. Seventeen.

22 Q. How old were you for the murder of Gerson?

23 A. Eighteen.

24 Q. Please take a look at what has been marked for
25 identification purposes as Government's Exhibit 122.

1 Do you have that document in front of you?

2 A. Yes.

3 Q. Does it appear to be a copy of your plea
4 agreement?

5 A. Yes.

6 Q. On the last page of the plea agreement, is that
7 your signature?

8 A. Yes.

9 MS. MARTINEZ: Your Honor, the government
10 offers into evidence Government's Exhibit 122.

11 THE COURT: 122 will be received.

12 BY MS. MARTINEZ:

13 Q. Have you been sentenced for your crime?

14 A. Yes.

15 Q. What was your sentence?

16 A. Life.

17 Q. What are your obligations under your plea
18 agreement?

19 A. To cooperate, to say the truth.

20 Q. What benefit do you hope to receive from
21 cooperating and telling the truth?

22 A. To perhaps have my sentence reduced.

23 Q. Who do you understand would reduce your sentence
24 if that happened?

25 A. The judge.

1 Q. What do you understand the consequences would be
2 if you lie in court or to the government?

3 MR. JENKINS: Objection, Your Honor,
4 compound.

5 THE COURT: Sustained.
6 BY MS. MARTINEZ:

7 Q. What do you understand would be the consequences
8 if you lie to the government?

9 A. That they wouldn't reduce anything for me.

10 Q. What do you understand would be the consequences
11 if you lie in court during your testimony?

12 A. I would have life in prison.

13 Q. As part of your cooperation, have you been placed
14 in protective custody within the Bureau of Prisons?

15 A. Yes.

16 Q. How did you first come to be involved in MS-13?

17 A. At school.

18 Q. How at school?

19 A. At the school, I met the members of the gang.

20 Q. What members of the gang did you meet at school?

21 A. MS-13.

22 Q. Which members did you meet at school?

23 A. Yes.

24 Q. Can you please tell us the members of MS-13 who
25 you met at school.

1 A. Guepardo and Lil Poison.

2 Q. How did you meet Guepardo and Lil Poison?

3 A. I had them in all of my classes.

4 Q. What school was this?

5 A. J.E.B. Stuart.

6 Q. Once you met Guepardo and Lil Poison, how did you
7 become involved in MS-13?

8 A. Doing favors for them.

9 Q. For who?

10 A. For, for them.

11 Q. Who?

12 A. Guepardo and Lil Poison.

13 Q. What was your role at that point when you were
14 doing favors in the gang?

15 A. *A paro.*

16 Q. What is a *paro*?

17 A. To do any sort of favor that they tell you to.

18 Q. That who tells you to?

19 A. Guepardo and Lil Poison.

20 Q. What was Guepardo's level in the gang when you
21 first got involved?

22 A. Homeboy.

23 Q. What was Lil Poison's level in the gang when you
24 first got involved?

25 A. Homeboy.

1 Q. What kinds of favors did you do as a *paro*?

2 A. To store drugs, to sell drugs.

3 Q. How long did you stay a *paro*?

4 A. It was months. I can't remember how many, but it
5 was just months.

6 Q. What happened after that?

7 A. I became a *chequeo*.

8 Q. What is a *chequeo*?

9 A. It's when you got your foot further into the door
10 to become a member of a gang.

11 Q. As a *chequeo*, what did you do for the gang?

12 A. Favors.

13 Q. What kinds of favors?

14 A. To sell drugs.

15 Q. Why did you become a *chequeo*?

16 A. They send me to kill somebody else with another
17 gang member.

18 Q. Were you successful in killing that person in
19 that instance?

20 A. No.

21 Q. How did that help you become a *chequeo*?

22 A. They saw in me that I had the courage to do
23 whatever they told me.

24 Q. How long were you a *chequeo*?

25 A. Three, three months.

1 Q. Then what happened?

2 A. I became a homeboy.

3 Q. What did you have to do to become a homeboy?

4 A. Kill.

5 Q. Who did you kill?

6 A. Lagrima.

7 Q. How old were you when you became a homeboy?

8 A. Seventeen.

9 Q. What ritual does the gang have after someone does
10 something like you did to become a homeboy?

11 A. They jumped you.

12 Q. What does that mean, "they jumped you"?

13 A. They give you a 13-second beating.

14 Q. When were you jumped in?

15 A. October the 8th of 2013.

16 Q. At the time that you became a homeboy in PVLS,
17 who were the leaders of PVLS?

18 A. Payaso, Greñas.

19 Q. Who was Payaso?

20 A. The -- the shot caller for the clique.

21 Q. Where was Payaso?

22 A. In prison.

23 Q. How did the clique communicate with Payaso?

24 A. Through the cellphone.

25 Q. Where was Greñas?

1 A. Outside, with us.

2 Q. Who were the other homeboys of PVLS when you
3 became a homeboy?

4 A. Lil Payaso, Lil Evil, Pesadilla, Greñas, Duende,
5 Skinny.

6 Q. Okay. We've mentioned a lot of names. Let's go
7 over them one by one.

8 First, Greñas, what was his level or role in the
9 clique?

10 A. The second word.

11 Q. What is the second word? What does that mean?

12 A. He was the one who would control outside on the
13 street. He would control us.

14 Q. Do you know Greñas by any other names?

15 A. Peluca.

16 Q. How long had you known Greñas before you were
17 arrested?

18 A. One year.

19 Q. Do you see Greñas in court today?

20 A. Yes.

21 Q. Would you please identify him by describing an
22 item of clothing he's wearing and describing where he's
23 sitting?

24 A. He's got a blue shirt, and he is two seats away
25 to your right.

1 MS. MARTINEZ: Your Honor, may the record
2 reflect that the witness has identified Defendant Jose
3 Lopez Torres as Greñas.

4 THE COURT: So noted.

5 BY MS. MARTINEZ:

6 Q. You also mentioned Lil Payaso. Do you know Lil
7 Payaso by any other name?

8 A. Yes.

9 Q. What name is that?

10 A. Slow.

11 Q. What was Little Payaso's role or level in the
12 clique?

13 A. Homeboy.

14 Q. How long did you know Lil Payaso?

15 A. Months.

16 Q. Do you see Lil Payaso here in court today?

17 A. No.

18 Q. Can you see everyone in court?

19 A. Yes.

20 Q. Okay. You also mentioned Pesadilla. Do you know
21 Pesadilla by any other name?

22 A. Yes.

23 Q. What name?

24 A. Tuner.

25 Q. How long did you know Pesadilla?

1 A. A year.

2 Q. What was his role in the game -- gang?

3 A. Homeboy.

4 Q. Do you see Pesadilla in court today?

5 A. No.

6 Q. You mentioned Guepardo.

7 A. Yes.

8 Q. Do you know Guepardo by any other name?

9 A. Yes.

10 Q. What name?

11 A. Bago.

12 Q. How long did you know Guepardo?

13 A. One year and a half.

14 Q. Do you know Guepardo's real name?

15 A. Yes.

16 Q. What is that?

17 A. Christian.

18 Q. What was Guepardo, Christian's role in the gang?

19 A. Homeboy.

20 Q. Do you see Guepardo in court today?

21 A. Yes.

22 Q. Please identify him by describing an item of
23 clothing he's wearing and where he's sitting.

24 A. He's got a light blue shirt, sitting next to a
25 lady with the pinkish shirt.

1 MS. MARTINEZ: Your Honor, may the record
2 reflect that the witness has identified Christian Lemus
3 Cerna?

4 THE COURT: So noted.

5 BY MS. MARTINEZ:

6 Q. You mentioned someone named Lil Poison.

7 A. Yes.

8 Q. Do you know him by any other name?

9 A. Yes.

10 Q. What name is that?

11 A. El Wasón.

12 Q. Do you know Lil Poison's real name?

13 A. Yes.

14 Q. What is that?

15 A. Douglas.

16 Q. What was Lil Poison's role in the gang?

17 A. Homeboy.

18 Q. How long had you known him?

19 A. A year and a half.

20 MS. MARTINEZ: Your Honor, may we show the
21 witness what has already been admitted into evidence as
22 Government's Exhibit 69-A?

23 THE COURT: Yes.

24 MS. MARTINEZ: For convenience, if you're
25 okay with it, we'll just put it up on the screen.

1 BY MS. MARTINEZ:

2 Q. Who is the person in this picture?

3 A. Douglas.

4 Q. Is that the person you also called Lil Poison?

5 A. Yes.

6 Q. You also mentioned someone named Skinny. Do you
7 know Skinny by any other name?

8 A. Yes.

9 Q. What name?

10 A. Chaneque (phonetics).

11 Q. How long did you know Skinny?

12 A. One year.

13 Q. What was his role in the gang?

14 A. Homeboy.

15 MS. MARTINEZ: Your Honor, may we show the
16 witness what has been admitted as Government's
17 Exhibit 75?

18 THE COURT: Yes.

19 MS. MARTINEZ: Just a moment. I apologize,
20 Your Honor. I misspoke. May we show the witness what
21 has been marked as Government's Exhibit 77?

22 BY MS. MARTINEZ:

23 Q. Do you recognize this person?

24 A. Yes.

25 Q. Who is it?

1 A. Skinny.

2 Q. You also mentioned someone named Duende. Do you
3 know Duende by any other name?

4 A. No.

5 Q. How long did you know Duende?

6 A. A year and a half.

7 Q. What was his role in the gang?

8 A. Homeboy.

9 MS. MARTINEZ: Your Honor, may we show the
10 witness what has been previously moved into evidence as
11 Government's Exhibit 73?

12 THE COURT: Yes.

13 BY MS. MARTINEZ:

14 Q. Do you recognize this person?

15 A. Yes.

16 Q. Who is it?

17 A. Duende.

18 Q. Once you joined PVLS, did you attend meetings
19 with other members of the clique?

20 A. Yes.

21 Q. How often?

22 A. Twice a week.

23 Q. Where were the meetings?

24 A. At a park.

25 Q. What park?

1 A. I don't know the name of the park.

2 Q. What neighborhood was the park near?

3 A. Barcroft View.

4 Q. Did you say Barcroft View?

5 A. Yeah.

6 Q. What is Barcroft View?

7 A. A county (sic).

8 Q. Who attended the clique meetings?

9 A. All the homeboys.

10 Q. Were dues collected at the meetings?

11 A. Yes.

12 Q. How much?

13 A. Ten dollars.

14 Q. You've mentioned buying and selling drugs for the
15 gang.

16 A. Yes.

17 Q. What kinds of drugs did you sell for the gang?

18 A. Marijuana, crystal meth, heroin.

19 Q. Pardon me. Before we continue to talk about the
20 gang's drug business, at the meetings, what topics were
21 covered at the meetings?

22 A. Each homeboy had to pay the share from the sale
23 of the drugs that we were given to sell.

24 Q. Who kept track of the drug money?

25 A. Guepardo.

1 Q. What else was discussed at the clique meetings?

2 A. How all of us should be better.

3 Q. What do you mean by that?

4 A. How to be in a good standing as to controlling
5 our -- where we were and selling drugs.

6 Q. What do you mean by controlling where you were?

7 A. That no one else should be selling drugs in the
8 area where we were.

9 Q. Speaking of that, where did you sell drugs?

10 A. Culmore.

11 Q. Who instructed you about selling drugs?

12 A. Greñas.

13 Q. Where did the gang, the clique, get the drugs
14 from?

15 A. A homeboy from Los Angeles would send it.

16 Q. How would the drugs get from Los Angeles to
17 Virginia?

18 A. Through the mail.

19 Q. Who were they sent to?

20 A. To the address where we lived.

21 Q. Where who lived?

22 A. Culmore, Bellevue Drive.

23 Q. Who lived there?

24 A. Lil Poison, Pesadilla, Guepardo and myself.

25 Q. Who was the homeboy in Los Angeles who sent the

1 drugs?

2 A. Ne Ne.

3 Q. What clique did Ne Ne belong to?

4 A. Parque Vista.

5 Q. What would the clique do with the money made from
6 selling the drugs?

7 A. Send to El Salvador.

8 Q. Why did the clique send money from drug sales to
9 El Salvador?

10 A. The homeboys in the prisons there ask for it.

11 Q. What homeboys?

12 A. Poison.

13 Q. Why did homeboys in prison in El Salvador ask for
14 money?

15 A. It was our duty to help them.

16 Q. What do you mean by duty?

17 A. To help them, to be well in the prisons down
18 there.

19 Q. For what purpose?

20 A. Because they were members of the MS-13 gang.

21 MS. MARTINEZ: Your Honor, with the help of
22 the court security officer, may we please show the
23 witness what has been marked for identification as
24 Government's Exhibit 113-E, F, and G?

25 BY MS. MARTINEZ:

1 Q. Do you have those pictures in front of you?

2 A. Yes.

3 Q. Do you know what they're of?

4 A. Yes.

5 Q. Do you remember taking them?

6 A. Yes.

7 Q. What, generally, are they -- do they show?

8 A. Drugs.

9 MS. MARTINEZ: Your Honor, the government
10 offers into evidence Government's Exhibit 113-E, F, and
11 G.

12 THE COURT: Received without objection.

13 MS. MARTINEZ: May we publish, Your Honor?

14 THE COURT: Yes.

15 MS. MARTINEZ: Starting with 113-E.

16 BY MS. MARTINEZ:

17 Q. What's in this picture?

18 A. Drugs.

19 Q. What kind of drugs?

20 A. Marijuana.

21 Q. Where did you get these drugs?

22 A. A homeboy sent it to me.

23 MS. MARTINEZ: If we could zoom in on the
24 "to" label on that package.

25 BY MS. MARTINEZ:

1 Q. Can you read that name?

2 A. Daniel Ramos.

3 Q. Who is Daniel Ramos?

4 A. I don't know.

5 Q. Do you recognize the address?

6 A. Yes.

7 Q. What's the address?

8 A. My home.

9 MS. MARTINEZ: If we could zoom in now on
10 the "from" label.

11 BY MS. MARTINEZ:

12 Q. Can you read that?

13 A. No.

14 Q. Can you read what state it is?

15 A. California.

16 Q. Where did these drugs come from?

17 A. California.

18 Q. Who sent the drugs to you?

19 A. They call the homie Califa.

20 Q. And what clique did Califa belong to?

21 A. Parque Vista.

22 Q. Who made the arrangements for Califa to send
23 these drugs to you?

24 A. Poison.

25 Q. Which Poison?

1 A. The one in prison in El Salvador.

2 Q. What did you do with these drugs?

3 A. Sell them.

4 Q. Did you sell all of them?

5 A. No.

6 Q. What happened to the rest of them?

7 A. The police seized them from me.

8 Q. In addition to the homeboys in California who
9 sent you drugs, did the clique have other drug sources?

10 A. Can you repeat?

11 Q. In addition to the sources you've already
12 mentioned in California, people who sent drugs, were
13 there other people who sent drugs for your clique to
14 sell?

15 A. No.

16 MS. MARTINEZ: Your Honor, may we publish
17 113-F?

18 THE COURT: Yes.

19 BY MS. MARTINEZ:

20 Q. What is this?

21 A. Marijuana.

22 Q. Is that the same marijuana that we saw in the
23 last picture, or different marijuana?

24 A. The same.

25 Q. 113-G, what is this?

1 A. Money.

2 Q. Is that at all related to the drugs?

3 A. Yes.

4 Q. How so?

5 A. The money from the sale.

6 Q. Through your experience with MS-13, did you come
7 to learn the rules of MS-13?

8 A. Yes.

9 Q. Who taught you?

10 A. Douglas.

11 Q. What rules does the gang have related to
12 cooperating with the police?

13 A. None.

14 Q. Does the gang permit homeboys to cooperate with
15 the police?

16 A. No.

17 Q. What would happen to a homeboy or what could
18 happen to a homeboy who cooperates with the police?

19 A. He is killed.

20 Q. Are you familiar with the term "green light"?

21 A. Yes.

22 Q. What is a green light?

23 A. It's when a person is cooperating with the
24 police, they put a green light on you.

25 Q. When you say "they put a green light on you," who

1 do you mean?

2 A. The gang, MS-13.

3 Q. And what does it mean if a green light has been
4 put on someone by the gang?

5 A. The person is going to be killed.

6 Q. If a homeboy helps kill someone who has been
7 green lit by the gang, what happens to that homeboy's
8 reputation within the gang?

9 A. Just adds another body.

10 Q. What does it mean, to add another body for a
11 homeboy's reputation?

12 A. That he has another death, that he has more
13 deaths than others.

14 Q. Within the gang, is that considered a good thing
15 or a bad thing?

16 A. Good.

17 Q. How about for a *chequeo*? If a *chequeo* helps kill
18 someone who has been green lit by the gang, what does
19 that do for the *chequeo*?

20 A. Becomes a homeboy.

21 Q. Are you familiar with the term *chavala*?

22 A. Yes.

23 Q. Under the rules of MS-13, what is a gang member
24 supposed to do if he sees a *chavala*?

25 A. Kill him.

1 Q. What is a *chavala*?

2 A. It's an 18th Street gang member.

3 Q. If a gang member kills a *chavala*, what does that
4 do for the gang member's reputation in the gang?

5 A. It doesn't affect him at all.

6 Q. You said before that extra bodies are good.

7 A. Yes.

8 Q. Does that apply to killing *chavalas* or not?

9 A. Yes.

10 Q. Now, you said that you became a homeboy after the
11 murder of Lagrima; is that right?

12 A. Yes.

13 Q. Let's talk about that. Who was Lagrima?

14 A. A homeboy of the clique.

15 Q. Which clique?

16 A. PVLS.

17 Q. What did he look like?

18 A. Medium complexion, tall.

19 MS. MARTINEZ: Your Honor, may we show the
20 witness what has been admitted into evidence as
21 Government's Exhibits 61-A and 61-B?

22 THE COURT: Yes.

23 BY MS. MARTINEZ:

24 Q. Who is this?

25 A. Lagrima.

1 Q. Do you know what -- and who is Government's
2 Exhibit 61-B?

3 A. Lagrima.

4 Q. Do you know why Lagrima was killed?

5 A. Yes.

6 Q. How do you know why he was killed?

7 A. Because the homeboys told me.

8 Q. Who told you?

9 A. Lil Poison, Guepardo, Pesadilla, Skinny, Greñas,
10 Lil Evil, Duende.

11 Q. Let's focus on before the murder. When was the
12 first time that you learned that Lagrima would be
13 killed?

14 A. When we were on our way to a meeting.

15 Q. What night was that?

16 A. The night we killed him.

17 Q. Now, you said that you know why the gang killed
18 him; is that right?

19 A. Uh-huh.

20 Q. What was the reason?

21 A. Because he drank too much and he didn't follow
22 the rules of the gang, and he was cooperating with the
23 police.

24 Q. Do you know why the gang thought that he was
25 cooperating with the police?

1 MR. JENKINS: Objection, Your Honor.

2 THE COURT: What's the objection?

3 MR. JENKINS: Objection, Your Honor. I
4 don't think that's what the witness's testimony was.
5 Government counsel stated facts not in evidence.

6 MS. MARTINEZ: Your Honor, I believe he just
7 testified that one of the reasons he understood the gang
8 killed him was because he was cooperating with the
9 police.

10 THE COURT: Objection overruled.

11 BY MS. MARTINEZ:

12 Q. Do you know why the gang thought that Lagrima was
13 cooperating with the police?

14 A. Yes.

15 Q. How do you know?

16 A. Because Greñas tested him.

17 Q. What do you mean by "tested him"?

18 A. He told him that they were going to make a deal
19 at the 7-Eleven. He was going to be there. But Lagrima
20 didn't arrive at the 7-Eleven, but the police did.

21 Q. What did that mean?

22 A. Greñas said that he had sent the police.

23 Q. Now, you said that you learned that Lagrima would
24 be killed the night of the murder; is that right?

25 A. Yes.

1 Q. Who told you?

2 A. Douglas.

3 Q. How long before the murder did he tell you?

4 A. Minutes.

5 Q. Where was Lagrima killed?

6 A. In a park near a river.

7 Q. Do you know what park?

8 A. I don't know the name.

9 Q. Do you know what the park is close to?

10 A. Near Barcroft Street.

11 Q. Did you say Barcroft View?

12 A. Yes.

13 Q. Prior to the night that the gang killed Lagrima,
14 had you been to that park?

15 A. Yes.

16 Q. On the night that Lagrima was killed in the park,
17 I want to talk about who else was there. My first
18 question is: Was the person whom we agreed to call
19 homeboy two there for the murder of Lagrima?

20 A. Yes.

21 Q. In addition to homeboy two, who else was there?

22 A. Lil Payaso, Lil Poison, Lil Evil, Greñas, Skinny,
23 Duende and myself.

24 Q. What happened when you first arrived in the park?

25 A. All of us greeted one another.

1 Q. How did you greet one other?

2 A. Like this (indicating).

3 Q. Can you do that one more time?

4 A. (Indicating.)

5 Q. Start with that first sign. Would you hold it up
6 for a little longer for the jury?

7 A. (Indicating.)

8 MS. MARTINEZ: Your Honor, may the record
9 reflect that the witness is holding up his index and
10 pinky fingers, with the two middle fingers bent with his
11 thumb.

12 THE COURT: So noted.

13 BY MS. MARTINEZ:

14 Q. What was the second sign that you showed?

15 A. (Indicating.)

16 MS. MARTINEZ: Your Honor, may the record
17 reflect that the witness is holding his middle and index
18 fingers together, facing up, with his other fingers bent
19 and his thumb out.

20 THE COURT: So noted.

21 BY MS. MARTINEZ:

22 Q. That first sign, what does that mean?

23 A. The M.

24 Q. What does the second sign mean?

25 A. S.

1 Q. Why do you greet each other with those signs?

2 A. Those are the initials of Mara Salvatrucha.

3 Q. What happened after everyone greeted each other
4 with the hand signs?

5 A. He was told he was going to get a 13-second
6 beating because he was not following the gang's rules.

7 Q. Who told him that?

8 A. Greñas.

9 Q. What was Lagrima's reaction?

10 A. That it was okay, that he was not going to do it
11 again, and to have them beat him for 13 seconds.

12 Q. What happened after that?

13 A. We crossed the river towards the area where we
14 were going to beat him.

15 Q. Once you arrived at the area where you were going
16 to beat him, what happened?

17 A. So, he stood in the middle, and Greñas started
18 counting 13 seconds. But then he told him that it
19 was -- it was going to be a 26.

20 Q. Was Lagrima eventually knocked down?

21 A. Yes.

22 Q. Who knocked him down?

23 A. Lil Payaso.

24 Q. How would you describe Lil Payaso?

25 MS. RALLS: Your Honor, may we approach?

1 THE COURT: Okay.

2 (Thereupon, the following side-bar
3 conference was had:)

4 MS. RALLS: Your Honor, this witness has
5 stated that -- has said that he knows an individual
6 named Lil Payaso, but did not identify the person as
7 being present in the courtroom, because the person that
8 he knows as Lil Payaso is not here. We object to any
9 questioning about what, that Lil Payaso did or what he
10 looked like, or anything referring to that.

11 MS. MARTINEZ: Your Honor, there's no basis
12 for that objection. He didn't -- he did not identify
13 Omar Dejesus Castillo, that is true. However, he has
14 described the involvement of someone named Lil Payaso.
15 The question, "How would you describe Lil Payaso," is
16 certainly appropriate here.

17 MS. RALLS: Your Honor, there's another
18 individual that was identified as Lil Evil who is not
19 here. We're not asking questions about Lil Evil. It
20 would unduly prejudice, beyond prejudice, against my
21 client to have him confused with the Lil Payaso who is
22 not identified as being in the courtroom.

23 MS. MARTINEZ: May I respond to that, Your
24 Honor?

25 THE COURT: Go ahead.

1 MS. MARTINEZ: We certainly have asked the
2 questions about what Lil Evil did. We also asked
3 questions what Lil Poison did, who is also not present.
4 We asked questions about what Big Payaso did, who is not
5 here. We asked questions about what a lot gang members
6 did who are not here.

7 Obviously, we disagree that Lil Payaso is
8 not here. The witness has not identified him, that, I
9 concede. The witness can testify about what various
10 people did during the murder, including the person whom
11 he is referring to as Lil Payaso. And certainly, he can
12 be expected -- or he should be permitted to describe the
13 person he's talking about.

14 THE COURT: All right. I'm going to
15 overrule the objection. Direct examination is not over
16 yet, and the witness will see that when he was asked, if
17 he could identify, he can stand. And other witnesses
18 were permitted to stand. So direct examination is not
19 over yet.

20 So your objection is overruled. Thank you.

21 MS. RALLS: Thank you, Your Honor.

22 (Thereupon, the side-bar conference was
23 concluded.)

24 BY MS. MARTINEZ:

25 Q. We were talking about Lil Payaso. How would you

1 describe Lil Payaso?

2 A. Tall, medium or swarthy complexion.

3 Q. What did Lil Payaso do during the murder of
4 Lagrima?

5 A. He helped to bring him down, to hold him and to
6 kill him.

7 Q. What happened after Lil Payaso helped to knock
8 Lagrima down?

9 A. Lil Poison came and started stabbing at him with
10 a knife.

11 Q. Where?

12 A. On the chest.

13 Q. What did Lil Poison do after that?

14 A. He got out a machete and started cutting his
15 neck.

16 Q. When this was happening, what was Greñas doing?

17 A. Keeping hold of him through one arm.

18 Q. What was Skinny doing?

19 A. Keeping hold of a leg.

20 Q. How many times was Lagrima stabbed?

21 A. I don't know how many, but there were a lot.

22 Q. Where?

23 A. In the chest.

24 Q. What weapons were used during the murder of
25 Lagrima?

1 A. Knives and machete.

2 Q. What happened with the machete?

3 A. It was made to disappear.

4 Q. What happened with the machete during the murder?

5 A. They -- it was used to cut his neck.

6 Q. What weapon did you use?

7 A. A knife.

8 Q. What did you do with the knife?

9 A. I -- I -- I stabbed him in the heart.

10 Q. Do you recall Lagrima saying anything during the
11 attack?

12 A. Yes.

13 Q. What did he say?

14 A. To please not kill him, that he was going to say
15 who was the other one who was talking.

16 Q. Who responded to him?

17 A. Greñas.

18 Q. What did Greñas say?

19 A. That that was happening to him for being a rat,
20 for being a snitch.

21 Q. Was Lagrima able to say who was the one who
22 ratted?

23 A. No.

24 Q. Why not?

25 A. He died.

1 Q. What was the last thing he said before he died?

2 A. "La Mara."

3 Q. What happened to Lagrima's body after he died?

4 A. They buried it.

5 Q. What happened to you after the murder that same
6 night?

7 A. They jumped me in.

8 Q. Where were you -- where were you when you were
9 jumped in?

10 A. At the same park.

11 Q. After the night that Lagrima was killed, did you
12 ever go back to the location where Lagrima had been
13 killed?

14 A. Yes.

15 Q. Why?

16 A. Because -- because I went with Skinny to see how
17 it was, where we had buried him.

18 Q. For what reason?

19 A. Because so that nobody would notice where he was.
20 We went to see whether he was well --

21 THE INTERPRETER: The interpreter inquired
22 as to the last word, and the witness then said, "We went
23 to make sure that he was well buried."

24 BY MS. MARTINEZ:

25 Q. What did you observed when you went to the place

1 where Lagrima was buried?

2 A. Nothing; like a bump.

3 Q. After the murder, was the murder discussed among
4 other people in the clique?

5 A. Yes.

6 Q. Was it discussed with any *chequeos* in the clique?

7 A. Yes.

8 Q. Who?

9 A. Solitario, Lil Guasón.

10 Q. Who is Solitario?

11 A. A *chequeo* from the clique.

12 Q. Do you know him by any other name?

13 A. Yes.

14 Q. What name?

15 A. Colita.

16 Q. How long did you know Solitario?

17 A. A year.

18 Q. Do you see Solitario in court?

19 A. No.

20 Q. If you would, would you stand and make sure you
21 can see everyone in court?

22 A. Yes.

23 Q. Does that make any difference to anyone you were
24 asked to identify?

25 A. Yes.

1 Q. What difference does that make for you?

2 A. Can I look for a second?

3 Q. What do you mean by, can you look? Are you
4 asking to get closer?

5 A. Could you repeat the question?

6 Q. When you said, "Can I look," what are you asking
7 me?

8 A. She asked me whether I was able to see a little
9 better when I was standing.

10 Q. Are you able to see better while you're standing?

11 A. Yes.

12 Q. Is there someone you didn't see before?

13 A. Yes.

14 Q. Who?

15 A. Lil Payaso.

16 Q. Would you please identify Lil Payaso by something
17 he's wearing and describing where he's sitting.

18 A. A white shirt, next to a lady who's got a black
19 shirt.

20 Q. What row is Lil Payaso in, if this row to my
21 right is row number one?

22 A. The third one.

23 MS. MARTINEZ: Your Honor, may the record
24 reflect that the witness has identified Omar Dejesus
25 Castillo as Lil Payaso.

1 THE COURT: So noted.

2 BY MS. MARTINEZ:

3 Q. Is there anyone else you're better able to see
4 while you're standing up?

5 Sir, I notice that you're squinting.

6 A. Yes. I cannot see well.

7 Q. Do you have any trouble with your eyesight?

8 Are there people you're trying to see that you're
9 not able to see clearly?

10 A. Uh-huh. Yes.

11 Q. Is there anything we can do to help you see more
12 clearly?

13 MR. CHICK: Your Honor, I'm happy to
14 stipulate he can identify my client.

15 THE COURT: I'm sorry?

16 MR. CHICK: If it's helpful, I'm happy to
17 stipulate he can identify my client.

18 THE COURT: All right. The record should
19 reflect that Mr. Chick has stipulated that Solitario,
20 who is Mr. Manuel Ernesto Paiz Guevara, has been
21 identified for the record.

22 BY MS. MARTINEZ:

23 Q. Is there anyone else that you're better able to
24 see while you're standing?

25 A. Yes.

1 Q. Who?

2 A. Pesadilla.

3 Q. Please identify Pesadilla by describing an item
4 of clothing he's wearing and where he's sitting.

5 A. I cannot see his clothes, but he's in the second
6 row.

7 MS. AUSTIN: Your Honor, we'll stipulate.

8 THE COURT: Counsel has stipulated that Omar
9 Dejesus Castillo has been identified --

10 MS. MARTINEZ: Your Honor, no.

11 THE COURT: I'm sorry. I'm sorry. Alvin
12 Gaitan Benitez -- thank you -- has been identified as
13 Pesadilla by the witness.

14 Go ahead.

15 BY MS. MARTINEZ:

16 Q. Thank you. You can go ahead and take a seat.
17 All right. We had been talking about Solitario before
18 we had you stand up. Do you remember?

19 A. Yes.

20 Q. And, you said that the gang talked about the
21 murder of Lagrima with Solitario?

22 A. Yes.

23 Q. What did Solitario say to you about the murder of
24 Lagrima?

25 A. That he didn't care, that it was fine, that he

1 was a rat, that he should be killed.

2 Q. When he said that to you, was that before or
3 after the murder of Lil Wasón?

4 A. Before.

5 Q. How did he seem to you when he said that he
6 didn't care about the murder of Lagrima?

7 A. He didn't care.

8 Q. Let's talk about the second murder, the murder of
9 Lil Wasón. Who was Lil Wasón?

10 A. A *chequeo* from the clique.

11 Q. What was his real name?

12 A. Gerson.

13 MS. MARTINEZ: Your Honor, may we show the
14 witness what has already been admitted as Government's
15 Exhibit 62-B.

16 THE COURT: Yes.

17 BY MS. MARTINEZ:

18 Q. Who is this?

19 A. Gerson.

20 Q. Do you know why Gerson, Lil Wasón, was killed?

21 A. Yes.

22 Q. How do you know?

23 A. The homies told me.

24 Q. Why was Lil Wasón killed?

25 THE INTERPRETER: Interpreter didn't quite

1 hear the last word. May the interpreter speak with the
2 witness, Your Honor?

3 THE COURT: Yes.

4 THE WITNESS: For he owed us some money and
5 he was having relations with Skinny's woman.

6 BY MS. MARTINEZ:

7 Q. Let's start with the first reason. What do you
8 mean by, "he owed us some money"?

9 A. Yes. He owed \$600 from some drugs which they
10 sent to him to sell, and he didn't pay it.

11 Q. Why was it a problem that he didn't pay the \$600?

12 A. Could you repeat?

13 Q. Why was it a problem for the gang that Lil Wasón
14 didn't pay the \$600 that he owed?

15 A. Because it's a rule, when they give you drugs,
16 you have to return the money that they tell you.

17 Q. What are the consequences for violating that
18 rule?

19 A. They beat you up for 13 seconds.

20 Q. The other reason that you gave for Little Wasón's
21 murder is that he was having relations with Skinny's
22 woman; is that right?

23 A. Yes.

24 Q. What do you mean by that?

25 A. Could you repeat?

1 Q. What does that mean?

2 A. That no homeboy may -- it's a rule, that you're
3 going to have relations with another homeboy's woman.

4 Q. When did you first hear a suggestion that Lil
5 Wasón should be killed?

6 A. It was at the room where I was living.

7 Q. When was it? How long before the murder?

8 A. No, like a week.

9 Q. Who was the person you first heard about killing
10 Little -- let me start again. Who was the person who
11 said something initially about killing Lil Wasón?

12 A. Lil Poison.

13 Q. What did Lil Poison say?

14 THE INTERPRETER: Your Honor -- okay.

15 THE WITNESS: That we should call him
16 because he was *botando pandilla* to him.

17 MS. MARTINEZ: I think we're going to need a
18 translation for that.

19 THE INTERPRETER: May the interpreter
20 inquire of the witness?

21 THE COURT: Yes.

22 THE WITNESS: That he was the one who got
23 him into the gang, and he doesn't want that the person
24 whom he got into the gang should be making him look
25 badly.

1 BY MS. MARTINEZ:

2 Q. Who was the person that Lil Poison got into the
3 gang?

4 A. Lil Wasón.

5 Q. How was Lil Wasón making Lil Poison look bad?

6 A. Having relations with another -- well, with a
7 homie's woman.

8 Q. Who else was there for that conversation?

9 A. Leopardo, Pesadilla.

10 Q. Do you remember the date that the murder
11 happened?

12 A. I'm not -- 29 or 30, I'm not sure, of March,
13 2014.

14 Q. When did you learn that the murder was going to
15 be that specific day?

16 A. They wanted to kill him on a Saturday at 12:00
17 midnight.

18 Q. Who wanted to kill Lil Wasón on a Saturday at
19 12:00 midnight?

20 A. Lil Poison and Leopardo.

21 Q. The day of the murder, where did you go first?

22 A. To the room where I lived.

23 Q. How did you get to the room where you lived?

24 A. In a car.

25 Q. Who's car?

1 A. Payaso's woman.

2 Q. Which Payaso?

3 A. The one that was at the prison.

4 Q. Where was the room that you lived, what
5 neighborhood?

6 A. In Culmore.

7 Q. Who else was in the car with you when you went to
8 Culmore?

9 A. Lil Payaso.

10 Q. What happened when you got to the apartment in
11 Culmore?

12 A. We spoke about how we're going to --

13 THE INTERPRETER: Interpreter is not sure
14 what he said. May the interpreter --

15 THE COURT: Yes.

16 THE WITNESS: We spoke about how we were
17 going to do, to get to the park.

18 BY MS. MARTINEZ:

19 Q. Who was there for that conversation in the
20 apartment?

21 A. Lil Payaso, Guepardo, and I.

22 Q. Now, when you said you talked about how you were
23 going to go to the park, can you explain further what
24 you mean?

25 A. Each person was to go -- get there through a

1 different way or path.

2 Q. What was the reason for going to the park that
3 night?

4 A. Because we were going to kill Lil Wasón.

5 Q. In the apartment, before you went to the park,
6 was there any conversation about the murder?

7 MS. AUSTIN: Objection, leading, Your Honor.

8 THE COURT: Sustained.

9 BY MS. MARTINEZ:

10 Q. In the apartment, what was discussed?

11 A. That -- that -- that we were going to take him
12 there, that we were going to give him a 13-second
13 beating, that we were going to kill him.

14 Q. Take who?

15 A. Lil Wasón.

16 Q. Who was there for the conversation about taking
17 Lil Wasón to the park and killing him?

18 MS. RALLS: Asked and answered.

19 THE COURT: Overruled.

20 BY MS. MARTINEZ:

21 Q. Who was there for the conversation about taking
22 Lil Wasón to the park and killing him?

23 A. Lil Poison, Leopardo, Lil Pesadilla, and I.

24 Q. At some point, did you leave the apartment?

25 A. Yes.

1 Q. Where did you go?

2 A. Towards the park.

3 Q. What park?

4 A. I don't know the name of the park.

5 Q. What is the park close to?

6 A. Close to Barcroft View.

7 Q. Was that the same park or a different park from
8 where the clique killed Lagrima?

9 A. The same one.

10 Q. Do you know who picked the location of where the
11 clique would kill Lil Wasón?

12 A. Yes.

13 Q. Who chose the location?

14 A. Guepardo.

15 Q. What role did Guepardo have in the clique at that
16 time?

17 A. Homeboy.

18 Q. Where was Greñas at this time, at the time of the
19 murder of Lil Wasón?

20 A. In the jail.

21 Q. Who was the leader after Greñas was arrested?

22 A. Lil Poison.

23 Q. Who was the leader at the time that the clique
24 killed Lil Wasón?

25 A. Lil Poison.

1 Q. Now, you also mentioned Payaso, who communicated
2 with the clique on a cellphone from jail. What was his
3 position?

4 A. He was the shot caller.

5 Q. At the time of the murder of Lil Wasón, was
6 Payaso still a shot caller?

7 A. By that time, we already -- it been a month that
8 gone by where we hadn't talked to him. We had already
9 lost communications.

10 Q. So, who was in charge of the clique?

11 A. Lil Poison.

12 Q. During that time shortly before the murder of Lil
13 Wasón, who ran the clique meetings?

14 A. Lil Poison.

15 Q. On the night of the murder of Lil Wasón, what
16 time was it, approximately, when you left the apartment?

17 A. Like 1:00 a.m.

18 Q. Do you know how Lil Wasón got to the park that
19 night?

20 A. Yes.

21 Q. How do you know?

22 A. I asked Solitario to send him a text message, to
23 ask him whether he was with him, that there was to be a
24 meeting at the park.

25 THE COURT: Excuse me. This will be where

1 we will stop for the day.

2 All right, ladies and gentlemen, we're going
3 to recess for the evening. And as I've said many times,
4 do not discuss the case with anyone. Do not allow the
5 case to be discussed in your presence.

6 Don't do any research on the case. Don't
7 post anything on social media. Don't review any media
8 reports in the newspaper that might appear on the
9 Internet. And leave your notes in the jury deliberation
10 room.

11 We will resume tomorrow at 10:00 o'clock.

12 Thank you.

13 You can step down, sir.

14 (Witness stood aside.)

15 THE COURT: We're in recess.

16 (Proceedings concluded at 5:01 p.m.)

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CERTIFICATE OF REPORTER

I, Renecia Wilson, an official court reporter for the United States District Court of Virginia, Alexandria Division, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had upon the jury trial in the case of UNITED STATES OF AMERICA v. JOSE LOPEZ TORRES, et al.

I further certify that I was authorized and did report by stenotype the proceedings in said jury trial, and that the foregoing pages, numbered 1 to 178, inclusive, constitute the official transcript of said proceedings as taken from my shorthand notes.

IN WITNESS WHEREOF, I have hereto subscribed my name this 19th day of May, 2016.

/s/

Renecia Wilson, RMR, CRR
Official Court Reporter